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## Al-Shabaab - Harvard

**Al Shabaab has shifted focus to a global scale – they are amping up sophistication and are planning another attack**

**AFP 10/17** <Agence France-Presse. “Al-Shabaab poses regional threat after Westgate attack” October 17, 2013. <http://www.nation.co.ke/news/africa/Al-Shabaab-a-threat-to-region-after-Westgate-attack/-/1066/2037708/-/11icf5l/-/index.html>>

One month after Somalia's Al-Shabaab fighters stormed Kenya's Westgate shopping mall and massacred dozens of people, the threat from regional sleeper cells or local sympathisers remains high, analysts warned.¶ "If you haven't learnt the lesson Westgate, more is coming," read posters put up this week at rallies in the southern Somali port of Barawe, a stronghold of the Al-Qaeda linked militants.¶ "For every Muslim killed in Kismayo, Kenya will pay the price," another read, referring to a city Kenyan troops captured last year.¶ The attack on the Nairobi mall which left 67 dead marked a significant and worrying step up in Al-Shabaab operations, and had required long periods of surveillance and planning, security experts said.¶ Richard Dowden, head of Britain's Royal African Society, has warned that the Westgate attack suggests Al- Shabaab commanders have shifted from "Somali internal politics and closer to Al-Qaeda's global agenda."¶ Tackling the Al-Shabaab is on two key fronts: militarily inside Somalia where African Union troops have been battling the Islamists since 2007, but also in the wider region, especially those countries whose armies are in Somalia, including Burundi, Ethiopia, Kenya and Uganda.¶ Earlier this month US Assistant Secretary for African Affairs Linda Thomas-Greenfield told the Senate Foreign Relations committee the Westgate "attack suggests that violent extremism in the Horn of Africa may be evolving."¶ Security remains on high alert, with the US embassy in the Ugandan capital Kampala warning this week it "continues to assess reports that a Westgate-style attack may soon occur".¶ The AU force in Somalia has requested its size be boosted by a quarter to 23,000 troops and President Hassan Sheikh Mohamud urged "total war" on the Shebab "to deny them territory and the space to train and plan".¶ AL-SHABAAB RECRUITS¶ But territorial gains inside Somalia alone will not eliminate the Al-Shabaab, or Islamist forces aligned to the extremists, across the wider region.¶ Foreign fighters from Western or Arab nations with the Al-Shabaab in Somalia have gained much of the focus in recent years.¶ On Friday, a Norwegian citizen of Somali origin, a 23-year old Hassan Abdi Dhuhulow, was named by the BBC as being suspected of being one of the attackers, although relatives in the Norwegian town of Larvik denied the claim.¶ But dozens, if not hundreds, of young men from countries across the Horn of Africa have also trained with theAl-Shabaab inside Somalia, according to United Nations experts.¶ "There are local sympathisers of the Al-Shabaab or aligned groups across eastern Africa, but so far their actions have been limited to fairly low scale attacks such as throwing grenades or shooting security forces," said a Western security source.¶ "The attack at Westgate was of a different scale, requiring far more planning, funding and training. The Al-Shabaab has the capability of sending specially trained recruits, waiting for the order to carry out specific large scale action."¶ The UN monitoring group on Somalia noted in its latest report in July the dangers posed by Kenya's Islamist Al-Hijra group, a radical organisation formerly known as the Muslim Youth Center, linked to the Al-Shabaab as well as groups in neighbouring nations.¶ Those include Tanzania's Ansar Muslim Youth Center, as well as groups in Rwanda and Burundi.¶ "Al-Shabaab continues to pose a regional and international threat through its affiliates," the UN report read, noting that as AU troops have seized more territory in Somalia, there has been an¶ "increasing exodus" of foreign fighters, some of whom left "with the intention of supporting jihad in the region".¶ Exactly who the attackers at Westgate were is not known, whether it was a team specifically sent from Somalia or even if they were a "homegrown" team recruited in Kenya itself.¶ The Al-Shabaab have carried out large scale attacks in Somalia and the region before, such as an attack on a UN compound in Mogadishu in June or bombings that killed 76 in Kampala in 2010.¶ "More than a dramatic jump in capacity, the (Westgate) attack shows a change in focus and motivation by Al-Shabaab's core planners," said Devon Knudsen, of the US-based Africa Center for Strategic Studies.¶ Some argue that the Westgate masterminds hoped to spark reprisals against Somalis in the country -- including both the half a million refugees and Kenya's sizable ethnic Somali citizens -- that would radicalise more to join the Al-Shabaab.¶ The Al-Shabaab emerged as a force in Somalia with attacks on Ethiopian troops during its 2006 invasion of Somalia.¶ "Al-Shabaab's greatest recruiting tools are revenge, nationalism and exclusion," wrote EJ Hogendoorn of the International Crisis Group.¶ He said the public claim of responsibility for Westgate was aimed to "trigger a backlash against Somalis and Muslims in Kenya and in southern Somalia."¶ For the Al-Shabaab, their propaganda message at least is clear, warning in another placard paraded on trucks loaded with heavily armed fighters: "Westgate was just the beginning."

**They have the means and the motive – they’ll strike in the US**

**Moore 10/18 -** Ph.D., is the chief executive officer of Muir Analytics, which assesses threats from insurgent and terror groups against corporations<Jeff. “The al-Shabaab Westgate raid -- A forewarning” October 18, 2013. http://www.upi.com/Top\_News/Analysis/Outside-View/2013/10/18/The-al-Shabaab-Westgate-raid-A-forewarning/UPI-80641382069100/>

Recently released details on the al-Shabaab raid on the Westgate mall in Nairobi, Kenya, have made it possible to more clearly analyze the attack and what it means.¶ In historical terms, al-Shabaab just went "pro" regarding international terrorism. It has joined the ranks of Lashkar-e-Toiba -- the 2008 Mumbai raiders -- and al-Qaida. Al-Shabaab is now a more forceful threat for Africa, the international community and the United States.¶ From Sept. 21-24, a platoon-sized formation of 10-15 al-Shabaab fighters raided and seized the fashionable Westgate shopping mall, taking scores of hostages in the process. Several of the fighters were apparently locally recruited Kenyans. This suggests possible support or participation by al-Hijra, an al-Qaida-like organization in Kenya and Tanzania that has previously supported al-Shabaab.¶ At any rate, the terrorists reportedly breached the mall from at least two entrances, raking patrons with AK-47 fire and throwing grenades as they went.¶ What followed sounds like a bad horror movie. The assailants corralled civilians into different parts of the mall and quizzed them on their knowledge of the Koran and the Prophet Mohammed. Those who got the questions right were politely shown the door. Those who got them wrong were summarily executed. The victims included men, women and children.¶ There are also unconfirmed but copious allegations of torture and even sexual abuse.¶ Kenyan security forces later cleared the mall, killing as many as five terrorists and capturing the rest. The civilian death toll was 61 and approximately 200 others were wounded.¶ This operation was well-planned. Undoubtedly, al-Shabaab agents reconnoitered the target. They knew the best ways to enter the mall and barricade themselves once inside and they fully understood they would be killing people in a family environment.¶ There is some discussion of al-Shabaab prepositioning belt-fed machine guns in the mall to use against rescue forces. All these tactics indicate not only technical assault expertise but clandestine tradecraft as well.¶ Why did al-Shabaab do it? The first reason was ideological. In al-Shabaab's mind, Kenya had attacked Islam, which had to be "defended." How is this so? In October 2011-June 2012, Kenya (and Ethiopia) helped the Somali government fight and reduce al-Shabaab's control over Somalia via Operation Linda Nchi. Since al-Shabaab saw itself as fighting for the spread of Islam -- the Islamist jihadi version -- Kenya was guilty of assaulting God and the Prophet Mohammed. Islamist jihadi law asserts the punishment for such an offense is death.¶ Second, there were technical targeting reasons. Al-Shabaab needed a soft, high-profile target that would result in numerous dead civilians in the most horrific manner. The upper-class Westgate was perfect for this.¶ The third reason was over command-and-control issues. Al-Shabaab watchers assert that this past summer and fall there developed a leadership struggle in the group that resulted in one of its key personnel, Mukhtar Abu Zubeyr, (aka Godane), assassinating his rivals such as Omar Shafik Hammami, (aka Abu Mansoor al-Amriki), an American from Alabama.¶ Godane wanted to align al-Shabaab with al-Qaida and operate not just in Somalia but also regionally and internationally. His rivals wanted to establish a Taliban-like regime just in Somalia. Westgate likely signified Godane consolidating his command and demonstrating al-Shabaab's new end goals and operational regimen.¶ And while the Westgate raid signifies a dramatic coloring outside the lines for al-Shabaab operations geographically, it wasn't the first time it struck in a neighboring country that had participated in anti-al-Shabaab operations.¶ In July 2010, al-Shabaab suicide bombers attacked two sports clubs in Kampala, Uganda, packed with civilians watching the FIFA World Cup final. The explosions killed 74 and wounded 70 -- revenge and Islamist jihadi "defense" for Uganda's participation in the United Nation's African Union Mission in Somalia.¶ What does it all mean?¶ First, it means al-Shabaab has strengthened. While the group lost ground in Somalia, on the surface indicating weakness, in reality, al-Shabaab has adapted to new realities and taken on a more vicious cause and adopted more heinous tactics. Al-Shabaab's newly found will and blood lust demonstrate fervent non-capitulation in the name of Islamist jihad.¶ Second, it means Islamist jihadism has expanded in Africa. Aside from Somalia and Kenya, al-Qaida-related groups are increasingly active in Egypt, Libya, Tunisia, Algeria, Mali, Nigeria and Tanzania. Al-Qaida isn't the least bit "on the run" as the White House has asserted. This was U.S. President Barack Obama's "mission accomplished" gaffe. Al-Qaida continues to morph, attract recruits and become more deadly.¶ Third, al-Shabaab has become a more serious threat to Africa and the international community. The Westgate raid demonstrates al-Shabaab has the ideological will to strike anywhere it has a clandestine network and it is good at setting up and running such networks.¶ For example, in the 2007 timeframe, al-Shabaab set up a clandestine cell in Minneapolis, reportedly run out of the Abubakar As-Saddique Islamic Center. This cell covertly recruited, indoctrinated and deployed at least 20 Somali-American youth from Minneapolis for combat missions in Somalia, which demonstrated considerable tradecraft prowess. One, 27-year-old Shirwa Ahmed, blew himself up in a terror attack in Somalia in October 2008. He is generally known as "America's first suicide bomber."¶ On Sept. 26, U.S. Attorney General Eric Holder asserted al-Shabaab didn't have the "capacity" to stage an attack in America. The good sir is well-meaning but wrong.¶ Al-Shabaab has dedicated ideologues and an effective clandestine network in America, so it can strike in the United States. The same goes for the United Kingdom, Europe and certainly greater Africa.¶ Al-Shabaab has adapted to new realities. So must Washington. The increased threat profile demands it.

**Causes retaliation and nuclear war**

Ayson 10 - Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington (Robert, July. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects.” Studies in Conflict & Terrorism, Vol. 33, Issue 7. InformaWorld.)

But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response. As part of its initial response to the act of nuclear terrorism (as discussed earlier) Washington might decide to order a significant conventional (or nuclear) retaliatory or disarming attack against the leadership of the terrorist group and/or states seen to support that group. Depending on the identity and especially the location of these targets, Russia and/or China might interpret such action as being far too close for their comfort, and potentially as an infringement on their spheres of influence and even on their sovereignty. One far-fetched but perhaps not impossible scenario might stem from a judgment in Washington that some of the main aiders and abetters of the terrorist action resided somewhere such as Chechnya, perhaps in connection with what Allison claims is the “Chechen insurgents’ … long-standing interest in all things nuclear.”42 American pressure on that part of the world would almost certainly raise alarms in Moscow that might require a degree of advanced consultation from Washington that the latter found itself unable or unwilling to provide. There is also the question of how other nuclear-armed states respond to the act of nuclear terrorism on another member of that special club. It could reasonably be expected that following a nuclear terrorist attack on the United States, bothRussia and China would extend immediate sympathy and support to Washington and would work alongside the United States in the Security Council. But there is just a chance, albeit a slim one, where the support of Russia and/or China is less automatic in some cases than in others. For example, what would happen if the United States wished to discuss its right to retaliate against groups based in their territory? If, for some reason, Washington found the responses of Russia and China deeply underwhelming, (neither “for us or against us”) might it also suspect that they secretly were in cahoots with the group, increasing (again perhaps ever so slightly) the chances of a major exchange. If the terrorist group had some connections to groups in Russia and China, or existed in areas of the world over which Russia and China held sway, and if Washington felt that Moscow or Beijing were placing a curiously modest level of pressure on them, what conclusions might it then draw about their culpability.

#### Prefer our specific scenario – Al-Shabaab is a top terrorist threat to the US, their defense doesn’t apply

**Gartenstein-Ross in 9** - American counter-terrorism scholar and analyst. He is the Director of the Center for the Study of Terrorist Radicalization at the Foundation for Defense of Democracies, a Washington-based think tank <Daveed. “The Strategic Challenge of Somalia's Al-Shabaab” Fall 2009. Middle East Quarterly. Pg 25. Proquest.>

Since its emergence, Al-Shabaab has played a major role in the insurgency that pushed Ethiopian forces out of Somalia; it also received the endorsement of Osama bin Laden and has seen large numbers of Somalis living in the West flock to its camps. Somalia has become, like Pakistan, a significant AI-Qaeda safe haven.1 Due to the relatively large number of Americans who travel to Somalia for military training, individuals linked to Al-Shabaab are among the top U.S. domestic terrorist threats.

#### And attacks in Africa destabilize the Horn of Africa

**Shiek and Omar 10/19** <Abdi and Feisal. “Suicide bomber kills 16 in Somali cafe attack aimed at foreign troops” October 19, 2013. Reuters. <http://uk.news.yahoo.com/suicide-bomber-kills-13-restaurant-central-somalia-102039346.html#JUEUoxn>> Rashid Abdi is

A suicide bomber killed at least 16 people on Saturday in an attack on a cafe in a Somali town close to the Ethiopian border frequented by local and foreign soldiers fighting al Qaida-linked rebels.¶ Al-Shabaab said it had carried out the bombing, in the town of Baladweyne, targeting troops participating in an African Union peacekeeping force fighting the Somali Islamist group. ¶ "A man with an explosives jacket entered unexpectedly in the tea shop where soldiers and civilians sat ... and blew himself up," said local elder Ahmed Nur, speaking from the scene of the blast. ¶ At least 16 people were killed and 33 wounded, local politician Dahir Amin Jesow told Reuters by telephone from Baladweyne. "The death toll may rise." ¶ Somali and African forces pushed al-Shabaab out of Baladweyne, about 210 miles north of Mogadishu, more than a year ago. ¶ But while the territory that al-Shabaab controls has greatly dwindled over the past two years, it continues to control large rural areas and some towns and has ratcheted up guerrilla-style attacks. ¶ "Our main target was Ethiopian and Djibouti troops who invaded our country," said al-Shabaab spokesman Sheikh Abdiasis Abu Musab. He put the death toll at 25. ¶ There was no independent word on whether foreign soldiers were among the casualties. ¶ Horn of Africa analyst Rashid Abdi said: "Al-Shabaab is sending a message that it has the will and the capacity to carry out these kinds of attacks. They are also sending a message that they have huge geographic reach." Al-Shabaab demonstrated the capacity to strike at far-away targets last month when its gunmen raided a shopping mall in Nairobi, hurling grenades and spraying bullets at shoppers as punishment for Kenya sending troops to Somalia. ¶ Uganda on Friday heightened its "terror" alert to maximum for the first time since bombings in 2010 that killed 79 people, citing domestic and US intelligence indications of a possibly imminent attack by al-Shabaab. ¶ Abdirahman Omar Osman, spokesman for President Hassan Sheikh Mohamud, said of Saturday's bombing: "That suicide attack was deliberately aimed at destabilizing the city and this is something we will not tolerate and it will not stop our plan to establish a local government in the region." ¶ Straddling a major highway that links south-western Somalia to southern and northern parts of the country, Baladweyne is the main gateway to the Ogaden region in Ethiopia, and a strategically vital area that Addis Ababa has often controlled.

Causes great power wars

Glick ‘7 - Senior Middle East Fellow – Center for Security Policy (Caroline, “Condi’s African Holiday”, 12-12, [http://www.centerforsecuritypolicy.org/home.aspx?sid=56&categoryid=56&subcategoryid=90&newsid=11568](http://www.centerforsecuritypolicy.org/home.aspx?sid=56&categoryid=56&subcategoryid=90&newsid=11568%29))

The Horn of Africa is a dangerous and strategically vital place. Small wars, which rage continuously, **can easily escalate into big wars.** Local conflicts have regional and global aspects. **All of the conflicts in this tinderbox, which controls shipping lanes from the Indian Ocean into the Red Sea,** **can potentially give rise to regional, and indeed global conflagrations between competing regional actors and global powers**. The Horn of Africa includes the states of Eritrea, Djibouti, Ethiopia, Somalia, Sudan and Kenya.

#### They’ll use CBWs – statements prove

**Onyango 10/12** <Protus. “Terrorism: Why Kenyans should be afraid but alert” October 12, 2013. <http://www.standardmedia.co.ke/mobile/?articleID=2000095415&story_title=terrorism-why-kenyans-should-be-afraid-but-alert>>

In what could paint the place of Kenya on the international terrorism map, the US agents also struck Libya and arrested Abu Anas al-Libi, who has been on its top wanted list since 1998 terrorist attack in Nairobi and Tanzania.¶ Next attack¶ Tweets from people thought to be associated with Al Shabaab said the next attack would be through chemical weapons targeting such sensitive public facilities such as water sources and collection points. They also boasted they have agents in every part of Kenya who are waiting for instructions to launch attacks. Security forces are not taking the threats issued by Al Shabaab lightly because they have a history of bloodletting on Kenyan soil, some even targeting children and students.¶ “The UN is investigating the use of chemicals used in killing people in Syria and given our porous borders, some of the weapons could get here,” warned Mr Simiyu Werunga, the Chief Executive Officer of African Centre for Security and Strategic Studies.¶ However, Mr Moses Ombati, the Nairobi Deputy Police Commander explains that police are doing its best to secure the county and Kenya in general. “We are working round the clock to ensure that Kenyans and our visitors enjoy their freedom. We have intensified patrols and put our officers on high alert,” Mr Ombati said.¶ Analysts now say that Kenya misread the threats posed by Al-Shabaab because KDF thought chasing them from Kismayo was enough to stop their threats. “The first misreading lay in the thinking that toppling Al-Shabaab from Kismayo and subsequently declaring victory would wipe it from the terrorists’ map. On the contrary, it opened a Pandora’s Box in which Al-Shabaab retreated back into society and re-established itself as a guerrilla force able to strike back,” explains Abdihakim Ainte in an article posted on Africanarguments.org

#### CBW use independently causes extinction

**Kellman ‘8** (Barry Kellman is the director of the International Weapons Control Center, “Bioviolence: A Growing Threat”, The Futurist, May-June 2008, http://www.wfs.org/March-April09/MJ2008\_Kellman.pdf)

A looming danger confronts the world—the threat of bioviolence. It is a danger that will only grow in the future, yet we are increasingly failing to confront it. With every passing day, committing a biocatastrophe becomes a bit easier, and this condition will perpetuate for as long as science progresses. Biological warfare is as old as conflict, of course, but in terms of the objectives of traditional warfare— gaining territory or resources, compelling the surrender of an opposing army—biological weapons weren’t very effective. If the objective is to inflict mass death and panic on a mixed population, however, emerging bioweapons offer remarkable potential. We would be irresponsible to presume that radical jihadists like al Qaeda have ignored said potential. What’s New in Bioviolence? Bioviolence refers to the many ways to inflict disease as well as the many people who might choose to do so, whether heads of states, criminals, or fanatics. Fortunately, doing bioviolence is technically far more difficult than using conventional explosives. Natural pathogens like anthrax are difficult to weaponize. Smallpox remains unavailable (presumably); plague is readily treatable; Ebola k i l l s t o o q u i c k l y t o i g n i t e a p a ndemic. But emerging scientific disciplines—notably genomics, nanotechnology, and other microsciences— could alter these pathogens for use as weapons. These scientific disciplines offer profound benefits for humanity, yet there is an ominous security challenge in minimizing the danger of their hostile application. For exampl e , highly dangerous agents can be made resistant to vaccines or antibiotics. In Australia, scientists introduced a gene into mousepox (a cousin of smallpox) to reduce pest populations—it worked so well that it wiped out 100% of affected mice, even those that had immunity against the disease. Various bacterial agents, such as plague or tularemia (rabbit fever), could be altered to increase their lethality or to evade antibiotic treatment. Diseases once thought to be eradicated can now be resynthesized, enabling them to spread in reg ions where there is no natural immunity. The polio virus has been synthesized from scratch; its creators called it an “animate chemical.” Soon, it may be resynthesized into a form that is contagious even among vaccinated popu l a t i o n s . Recreation of long eradicated livestock diseases could ravage herds severely lacking in genetic diversity, damage food supplies , and cause devastating economic losses. Perhaps the greatest biothreat is the manipulation of the flu and other highly contagious viruses, such as Ebola. Today, scientists can change parts of a virus’s genetic material so that it can perform specific functions. The genomic sequence of the Spanish flu virus that killed upwards of 40 million people nearly a century ago has been widely published; any savvy scientist could reconstruct it. The avian flu is even more lethal, albeit not readily contagious via casual aerosol delivery. A malevolent bioscientist might augment its contagiousness. The Ebola virus might be manipulat ed so that i t ki l l s more slowly, allowing it to be spread farther before its debilitating effects altogether consume its carrier. A bit further off is genetic manipulation of the measles virus—one of the great killers in human history—rendering useless the immunizations that most of us receive in early childhood. Soon , laboratory resynthesis of smallpox may be possible. Advanced drug delivery systems can be used to disseminate lethal agent s to broad populations . Bioregulators — small organic compounds that modify body systems— could enhance targeted delivery technologies. Some experts are concerned that new weapons could be aimed at the immune, neurological, and neuroendocrine systems. Nanotechnology that lends itself to mechanisms for advanced disease detection and drug delivery—such as gold nanotubes that can administer drugs directly into a tumor—could also deliver weaponized agents deep into the body, substantially raising the weapon’s effectiveness. Altogether, techniques that were on the frontiers of science only a decade or two ago are rapidly mutating as progress in the biological sciences enables new ways to produce lethal catastrophe. Today, they are on the horizon. Within a decade, they will be pedestrian. According to the National Academies of Science, “The threat spectrum is broad and evolving—in some ways predictably, in other ways unexpectedly. In the future, genetic engineering and other technologies may lead to the development of pathogenic organisms with unique, unpredictable characteristics.” For as far into the future as we can possibly see, every passing day it becomes slightly easier to commit a violent catastrophe than it was the day before. Indeed, the rapid pace of advancing science helps explain why policies to prevent such a catastrophe are so complicated. Bioviolence Jihad? Some experts argue that terrorists and fanatics are not interested in bioviolence and that the danger might therefore be overblown. Since there have been no catastrophic bioviolence attacks, these experts argue, terrorists lack the intention to make bioweapons. Hopefully, they are correct. But an enormous amount of evidence suggests they are wrong. From the dawn of biology’s ability to isolate pathogens, people have pursued hostile applications of biological agents. It is perilous to ignore this extensive history by presuming that today’s villains are not fervent about weaponizing disease. Not a single state admits to having a bioweapons program, but U.S. int e l l i g e n c e o f f i c i a l s a s s e r t t h a t a s many as 10 states might have active programs, including North Korea, Iran, and Syria. Moreover, many terrorist organizations have expressed interest in acquiring biological weapons. Whatever weight the taboo against inflicting disease might have for nation-states, it is obviously irrelevant to terrorists, criminals, and lunatics. Deterrence by threat of retaliation is essentially meaningless for groups with suicidal inclinations who are likely to intermingle with innocent civilians. Al -Qaeda and aff i l iat ed I s lami c fundamentalist organizations have overtly proclaimed their intention to develop and use bioweapons. The 11th volume of al-Qaeda’s Encyclopedia of Jihad is devoted to chemical and biological weapons. Indeed, alQaeda has acknowledged that “biological weapons are considered the least complicated and easiest to manufacture of all weapons of mass destruction.” Al-Qaeda is widely reported to have acquired legal pathogens via publicly available scientific sources. Before 9/11, al-Qaeda operatives reportedly purchased anthrax and plague from arms dealers in Kazakhstan, and the group has repeatedly urged followers to recruit microbiology and biotechnology experts. Follow ing th e Ta l iban ’ s fa l l , f iv e a l Qaeda biologi cal weapons labs in Afghanistan tested positive for anthrax. Documents calculating aerial dispersal methods of anthrax via balloon were discovered in Kabul, along with anthrax spore concentrate at a nearby vaccine laboratory. According to a lengthy fatwa commissioned by Osama bin Laden, jihadists are entitled to use weapons of mass destruction against the infidels, even if it means killing innocent women, children, and Muslims. No matter that these weapons cannot be specifically targeted. “[N]othing is a greater duty, after faith itself, than repelling an enemy attacker who sows corruption to religion and the world.” According to the fatwa, “No conditions limit this: one repels the enemy however one can.” The sentiment might be reprehen sible, but it is certainly not irrational. Even the most passionate terrorists must realize that conventional attacks are not bringing the West to its knees. The 9/11 strikes, the bombing of the Madrid and London subways, and numerous smaller attacks have all put civilization on edge, but history marches inexorably forward. A few thousand people can be killed, yet Western armies still traverse the world, and Western economies still determine winners and losers. From this perspective, the stakes must be raised. Bioviolence is perhaps the most dire, easiest means to execute existential danger. What Might Bioviolence Accomplish? Envision a series of attacks against capitals of developing states that have close diplomatic linkages with the United States. The attacks would carry a well-publicized yet simple warning: “If you are a friend of the United States, receive its officials, or suppo r t i t s po l i c i e s , thou sand s o f y o u r p e o p l e wi l l g e t s i c k . ” How many a t ta ck s in how many c i t i e s would it take before international diplomacy, to say nothing of international transit, comes to a crashing halt? In comparison to use of conventional or chemical weapons, the potential death toll of a bioattack could be huge . Al though the numbe r of victims would depend on where an attack takes place, the type of pathogen, and the sophistication of the weapons maker, there is widespread consensus among experts that a heightened attack would inflict casualties exceedable only by nuclear weapons. In comparison to nuclear weapons, bioweapons are far easier and cheaper to make and transport, and they can be made in facilities that are far more difficult to detect. The truly unique characteristic of c e r t a i n bioweapons t h a t d i s t i nguishes them from every other type of weapon is contagion. No other type of weapon can replicate itself and spread. Any other type of attack, no matter how severe, occurs at a certain moment in time at an identifiable place. If you aren’t there, you are angry and upset but not physically injured by the attack. An attack with a contagious agent can uniquely spread, potentially imperiling target populations far from where the agents are released. A b i o - o ff e n d e r c o u l d i n f e c t h i s minions with a disease and send them across borders before symptoms are obvious. Carriers will then spread it to other unsuspecting victims who would themselves become extended bioweapons, carrying the disease indiscriminately. There are challenges in executing such an attack, but fanatical terrorist organizations seem to have an endless supply of willing suicide attackers. All this leads to the most important characteristic of bioviolence: It raises incomparable levels of panic. Contagious bioviolence means that planes fly empty or perhaps don’t fly at all. People cancel vacation and travel plans and refuse to interact with each other for fear of unseen affliction. Public entertainment events are canceled; even going to a movie becomes too dangerous. Ultimately, bioviolence is about hiding our children as everyone becomes vulnerable to our most fundamental terror: the fear of disease. For people who seek to rattle the pillars of modern civilization and perhaps cause it to collapse, effective use of disease would set in motion political, economic, and health consequences so severe as to call into question the ability of existing governments to maintain their citizens’ security. In an attack’s wake, no one would know when it is over, and no government could credibly tell an anxious population where and when it is safe to resume normal life. While it is difficult to specify when this danger will strike, there should be no doubt that we are vulnerable to a rupture. Just as planes flying into the Twin Towers on September 11, 2001, instantly became a historical marker dividing strategic perspectives before from after, the day that disease is effectively used as an instrument of hate will profoundly change everything. If you want to stop modern civilization in its tracks, bioviolence is the way to go. The notion that no one will ever commit catastrophic bioviolence is simply untenable. What Can We Do? How can we confront these growing dangers? First, we must appreciate the global nature of the problem. Perpetrators from anywhere can get p a t h o g e n s f ro m v i r t u a l l y e v e r ywhe re . Biore s earch labs that onc e were concentrated in about two dozen developed states are proliferating, expanding the risk that lethal agents could be diverted and misused. The knowledge needed to weaponize pathogens is available on the Internet. An attack can be prep a r e d t h ro u g h e a s y n e tw o r k s o f transnational communication. Once a bioweapon is prepared, terrorists or other perpetrators from anywhere can slide across national boundaries and release disease anonymously. Once released, a contagious agent would spread without regard for boundaries, race, religion, or nationality. Public health responses would have to be internationally coordinated. New modes of international l egal coope rat ion would immediately be needed to investigate the crime. Thus, bioviolence dangers shrink the planet into an interdependent neighborhood. It makes no sense for any particular country to try to insulate its homeland from these dangers. No missile defense system will p ro t e c t u s f rom b i o v i o l e n c e . Improved border security will not keep disease at bay. National efforts to enhan c e m ed i ca l p repa redn e s s hav e virtues, but these defenses can be readily circumvented. To prevent bioviolence requires policies that focus on humanity as a species and that are implemented everywhere with centralized governance. Antibioviolence policies must be global. Ye t , advanc ing ant i -bioviol enc e policies is what the international community does worst. Bioviolence dangers are unnecessarily high because national and international antibioviolence strategies are gap-ridden, often incoherent, and not globally observed. As a result, we are all virtually naked in the face of unacceptable dangers. No ot her t hreat pre s ent s such a s tark cont ras t between severity of harm and a failure of leadership to reduce risks. Most important, existing institutional arrangements are inadequate. In sharp contrast to most other global security challenges, there is no responsible international authority that defines relevant prohibitions and responsibilities, implements policies over time, or evaluates whether obligations are being fulfilled. With regard to global bioviolence prevent i o n p o l i c i e s , t h e r e ’ s n o b o d y i n charge. No one is responsible; no one is accountable. The absence of authority is profoundly dangerous. Bioviolence prevention and preparedness requires a sizable orchestra, made up of various instruments, to play complicated music in harmony. Today, there is not a bad “conductor”, there is no conductor at all. The result is cacophony. Simply stated, bioviolence is the dark s ide of global izat ion, ye t int e rna tional alarms of bioviolence ring nowhere! We need a comprehensive national and international strategy for bioviol enc e prevent ion . [Se e box: “Five S t r a t e g i e s f o r P r e v e n t i n g B i oviolence,” page 30.] Policies should be pursued within an integrated approach that enables each policy to gain strength from all the others. Such policies are potentially available and effective, but they demand progressive changes in our global order. The Security Mission Global bioviolence prevention and preparedness policies are imperative, but also imperative is recognition that the world faces natural disease horrors. Where mass public health challenges are daily phenomena, the risks of terrorists using pathogens must be weighed against more tangible natural threats. Simply stated, it is illegitimate to insist that every nation adopt policies for preventing human-inflicted disease without acknowledging the silent genocide of natural disease that is responsible for millions of deaths. But neither is it legitimate to view bioviolence dangers as distractions from efforts to combat natural disease and therefore to put off beneficial measures until those afflictions are defeated. To do so frustrates forward movement on cost-effective initiatives that could help build an international security architecture for advancing science and health. Thus, bioviolence prevention must be a facet of a broad international commitment to: 1. Prevent the spread of disease ( e .g. , through publ i c -heal th measures). 2. Enhance protection against and cures for disease (e.g., through vaccination and drug therapies). 3. Supervise the conduct of biological science. 4. Criminalize unauthorized or improper use of pathogens. From this foundation should flow a policy commitment to the growth of bioscience as a global public good. Policies to encourage its worldwide spread deserve vigorous support. This governance mission should, therefore, be conceived as a global covenant . As bios c i enc e goe s forward as a fundamental pillar of human progress, all nations must undertake common responsibilities to prevent bioviolence even as the burdens associated with those responsibilities are differentiated according to wealth and capability. From everyone according to their abilities—to all for the benefit of all. The United Nations’ Importance The United Nations represents the b e s t venu e fo r a new gove rnanc e platform that can accommodate the need for an integrated global strategy agains t bioviol enc e . Only the United Nations has the necessary in ternational legitimacy, and only the Uni t ed Nat ions can int egrat e the many sectors—health, law enforcement, science, military, emergency preparedness—that must devote expertise and resources. A primary consideration here is to minimize any bureaucratic reshuffling. There is certainly no need to modify or replicate existing capabilities. Many relevant governance tasks are already addressed by one or more international organizations. For example, the World Health Organization should continue to be responsible for addressing the health implications of a pandemic, whether natural or malevolent. Interpol should continue to be responsible for a d d re s s i n g b i o v i o l e n c e ’ s l aw e nforcement implications. Indeed, the UN’s role should be only to coordinate the performance of these tasks. Broadly viewed, the United Nations should be able to undertake three functions: First, a specific UN agency should stimulate bioscience development by incorporating security concerns into the fabric of scientific undertakings and by assisting countries in using bioscience in ways that are consistent with policies for preventing bioviolence. Because science, development, and security can and must be mutually reinforcing, this agency’s primary responsibilities would be to promote and distribute knowledge and build capacity to fulfill obligations, especially in developing nations. Second, a UN office should coordinate activities among the relevant international/regional organizations, professional networks, and expert bodies. For example, three major international organizations focus on health (World Health Organization, Animal Health Organization, and the Food and Agriculture Organization); Interpol and Europol both focus on law enforcement; a large array of organizations focus on conveyance of dangerous items (e.g., International Maritime Organization, International Civil Aviation Organization). This UN office should be a steering mechanism to engage each of these orga nizations’ specialized expertise and to identify synergies. Third, a Security Council Committee should be authorized to investigate bioviolence preparations as well as respond and coordinate assistance to a bioviolence attack. Situations that call for investigation or response arise rarely, but they carry disproportionate significance for international peace and security. The Security Council Committee should not advance programmatic agendas, but it should be able to wield expertise and political muscle in volatile situations. Its primary mission would be to enable the international community to sustain global order in the face of a bioviolence challenge. Ever since someone harnessed a new technology to create a weapon with more devastating effects, there has been a link—a double helix—between the progress of science and the pursuit of security. This is inevitable. These dangers of bioviolence do not a rg u e f o r re l i n q u i s h i n g s c i e n t i f i c progress, but they disprove notions tha t n ew cha l l eng e s can b e e ff e ct ive ly addre s s ed wi th ye s t e rday’ s policies. At bottom is a condition unique to this historical era: Scientific progress is intertwined with escalating malevolence threatening human security. Progressing capabilities improve our l ive s and ye t , inext r i cably, enable truly harmful weapons against humanity. Here are the challenges to international peace and security at the beginning of the third millennium. Failing to do the right thing in response to these challenges could have dire consequences for all humanity.

#### Al-Shabaab will attack the Gulf of Aden

**Dorsey 11 -** formerly of The Wall Street Journal, is a senior fellow at the Nanyang Technological University’s S. Rajaratnam School of International Studies<James. “Closer ties between Somali and Yemeni jihadists threatens oil through Aden Gulf” July 18, 2011. <http://english.alarabiya.net/articles/2011/07/18/158199.html>>

Affiliates of Al Qaeda operating on opposite shores of key oil-export routes through the Gulf of Aden have forged closer ties in what could emerge as a substantial threat by a group that has been dealt severe body blows by the Arab revolt sweeping the Middle East and North Africa and the killing in May of Osama Bin Laden by US Navy Seals. ¶ The closer ties between Yemen-based Al Qaeda in the Arabian Peninsula (AQAP) and Al Shabaab in war-shattered Somalia is sparking concern among intelligence and counter-terrorism officials who suggest that AQAP may be the driving force behind closer cooperation between the two groups.¶ Cooperation between the two groups could heighten threats to the Gulf of Aden which through the Suez Canal links the Indian Ocean with the Mediterranean Sea. An estimated 2 million barrels of oil or 5 percent of the world’s seaborne oil trade is shipped each day through the Gulf, which has been nicknamed Pirate Alley because of continued attacks by Somali pirates. A UAE tanker was pirated late Friday bringing to 22 the number of vessels being held for ransom.¶ Intelligence and counter-terrorism officials are further concerned that the cooperation could prompt Al Shabaab, which despite recent setbacks controls significant chunks of Somalia, to expand its operations further into East Africa and embrace the principle of global jihad by also focusing on targets outside of Africa. AQAP is believed to have been supplying the group with weapons, fighters and training in explosives over the last year.

#### Collapses global trade – key to Suez Canal and oil supply

**Reuters 9** <Sources: Reuters/EIA www.eia.gov/BIMCO, Lloyd's Marine Intelligence Unit, GlobalSecurity/Ministry of Defense/International Maritime Bureau. “Somali pirates risk choking key world trade route” April 15, 2009. http://www.reuters.com/article/2009/04/15/us-somalia-piracy-shipping-factbox-idUSTRE53E2JR20090415>

Here are some facts about how the attacks threaten international seaborne trade¶ WHAT IS THE IMPACT?¶ -- Nearly 20,000 ships pass through the Gulf of Aden each year, heading to and from the Suez Canal.¶ -- Millions of tons of crude oil, petroleum products, gas and dry commodities such as grains, iron ore and coal, as well as containerized goods from Hi-Fis to toys are ferried through the Gulf of Aden and Suez Canal every month.¶ -- Major operators of the world's merchant fleet -- carrying 90 percent of the world's traded goods by volume -- have considered bypassing the Gulf of Aden and Suez Canal altogether.¶ -- Industry experts say the alternative trade route, round South Africa's Cape of Good Hope, would add three weeks or more to a typical journey, pushing up the cost of goods.¶ \* WHERE IS THE GULF OF ADEN?¶ -- The Gulf of Aden is located in the Middle East with Yemen to the north, Somalia to the south and the Arabian Sea to the east. It is connected to the Red Sea by the Bab el Mandab strait. Somalia has been stuck in civil conflict since 1991.¶ \* WHAT PASSES THROUGH?¶ -- Exports from the Gulf and Asia to the West must pass through Bab el-Mandab before entering the Suez Canal.¶ -- Seven percent of world oil consumption passed through the Gulf of Aden in 2007, according to Lloyd's Marine Intelligence Unit.¶ -- Around 30 percent of Europe's oil goes through the Gulf of Aden and Red Sea.¶ -- Liquefied natural gas exports from Qatar and Algeria pass through the Gulf of Aden en route to consumers in the West and in Asia. The largest class of gas carrier transiting the area carries enough gas to heat 4.5 million British homes.¶ -- The Gulf of Aden and Suez Canal are the main trade routes for dry commodities and containerized cargo -- manufactured goods -- between Asia, Europe and the Americas.

#### Global trading stability solves great power wars- collapse causes conflict

**Hillebrand ‘10** [Evan E., Senior Economist for the Central Intelligence Agency and Professor of Diplomacy at the University of Kentucky, Deglobalization Scenarios: Who Wins? Who Loses?, Global Economy Journal, Volume 10, Issue 2]  
  
A long line of writers from Cruce (1623) to Kant (1797) to Angell (1907) to Gartzke (2003) have theorized that economic interdependence can lower the likelihood of war. Cruce thought that free trade enriched a society in general and so made people more peaceable; Kant thought that trade shifted political power away from the more warlike 117 7 aristocracy, and Angell thought that economic interdependence shifted cost/benefit calculations in a peace-promoting direction. Gartzke contends that trade relations enhance transparency among nations and thus help avoid bargaining miscalculations. There has also been a tremendous amount of empirical research that mostly supports the idea of an inverse relationship between trade and war. Jack Levy said that, ―While there are extensive debates over the proper research designs for investigating this question, and while some empirical studies find that trade is associated with international conflict, most studies conclude that trade is associated with peace, both at the dyadic and systemic levels‖ (2003, p 127). There is another important line of theoretical and empirical work called Power Transition Theory that focuses on the relative power of states and warns that when rising powers approach the power level of their regional or global leader the chances of war increase (Tammen, Lemke, et al, 2000). Jacek Kugler (2006) warns that the rising power of China relative to the United States greatly increases the chances of great power war some time in the next few decades. The IFs model combines the theoretical and empirical work of the peace-through-trade tradition with the work of the power transition scholars in an attempt to forecast the probability of interstate war. Hughes (2004) explains how he, after consulting with scholars in both camps, particularly Edward Mansfied and Douglas Lemke, estimated the starting probabilities for each dyad based on the historical record, and then forecast future 118 8 probabilities for dyadic militarized interstate disputes (MIDs) and wars based on the calibrated relationships he derived from the empirical literature. The probability of a MID, much less a war, between any random dyad in any given year is very low, if not zero. Paraguay and Tanzania, for example, have never fought and are very unlikely to do so. But there have been thousands of MIDs in the past and hundreds of wars and many of the 16,653 dyads have non-zero probabilities. In 2005, the IFs base year—the last year of the data base and the starting year for all simulations—the average probability across the 183 countries represented in the model of a country being involved in at least one war was estimated to be 0.8%, with 104 countries having a probability of at least 1 war approaching zero. A dozen countries8, however have initial probabilities over 3%. The globalization scenario projects that the probability for war will gradually decrease through 2035 for every country—but not every dyad--that had a significant (greater than 0.5% chance of war) in 2005. The decline in prospects for war stems from the scenario’s projections of rising levels of democracy, rising incomes, and rising trade interdependence—all of these factors figure in the algorithm that calculates the probabilities. Not all dyadic war probabilities decrease, however, because of the power transition mechanism that is also included in the IFs model. The probability for war between China and the US, for example rises as the power9 of China rises gradually toward the US level but in these calculations the probability of a China/US war never gets very high.10 Deglobalization raises the risks of war substantially. In a world with much lower average incomes, less democracy, and less trade interdependence, the average probability of a country having at least one war in 2035 rises from 0.6% in the globalization scenario to 3.7% in the deglobalization scenario. Among the top-20 war-prone countries, the average probability rises from 3.9% in the globalization scenario to 7.1% in the deglobalization scenario. The model estimates that in the deglobalization scenario there will be about 10 wars in 2035, vs. only 2 in the Globalization Scenario11. Over the whole period, 2005-2035, the model predicts four great power wars in the deglobalization scenario vs. 2 in the globalization scenario.12 Winners and Losers Deglobalization in the form of reduced trade interdependence, reduced capital flows, and reduced migration has few positive effects, based on this analysis with the International Futures Model. Economic growth is cut in all but a handful of countries, and is cut more in the non-OECD countries than in the OECD countries. Deglobalization has a mixed impact on equality. In many non-OECD countries, the cut in imports from the rest of the world increases the share of manufacturing and in 61 countries raises the share of income going to the poor. But since average productivity goes down in almost all countries, this gain in equality comes at the expense of reduced incomes and increased poverty in almost all countries. The only winners were a small number of countries that were small and poor and not well integrated in the global economy to begin with—and the gains from deglobalization even for them were very small. Politically, deglobalization makes for less stable domestic politics and a greater likelihood of war. The likelihood of state failure through internal war, projected to diminish through 2035 212 1 with increasing globalization, rises in the deglobalization scenario particularly among the non-OECD democracies. Similarly, deglobalization makes for more fractious relations among states and the probability for interstate war rises.

## A2AD – Harvard

**Emerging A2AD threats and growing obsolescence of the CVW make carriers vulnerable and soaring costs cause budget rollback**

**Goure 13** - vice president at the Lexington Institute in Arlington, Virginia, where he specializes in national security <Daniel. “Drones to The Rescue!” September 2013. <http://www.usni.org/magazines/proceedings/2013-09/drones-rescue>>

The issue is important because, as anyone who has been following the recent budgetary developments in Washington knows, the future of the carrier is under increasing stress. Critics have contended that the Navy’s longstanding strategy of building the Fleet around a core of 11 nuclear aircraft carriers is becoming too expensive, and that the concept has been unable to keep pace with the rapidly growing array of threats from potential adversaries. And with the retirement of aging aircraft systems such as the A-6 and the S-3, some say the overall striking power of the carrier air wing has declined.Indeed, Secretary of Defense Chuck Hagel disclosed on 31 July that one of the largest potential spending cuts that a “strategic choices and management review” panel suggested earlier this year was to reduce the number of carrier strike groups from the current 11 to a new level of only eight or nine. “The basic tradeoff is between capacity . . . and our ability to modernize weapons systems and to maintain our military’s technological edge,” the secretary said. It’s here that the X-47B’s mid-July milestone was especially significant. The drone was developed as part of the Navy’s effort to design and test a UAV-centered unmanned combat air system. During the week that the Bush demonstration was being conducted, the Navy invited four defense contractors to submit preliminary design studies for an unmanned carrier-launched airborne surveillance and strike system, known as UCLASS. The Navy’s hope is to conduct an open competition in Fiscal Year 2014 that will result in the deployment of an operational system by FY 20.¶ The key performance parameters set out in the Navy’s invitation answered several lingering questions about the operational concept for UCLASS. The system’s primary role will be to conduct long-distance intelligence-gathering, surveillance, and reconnaissance (ISR), and to improve targeting. According to published documents, the UCLASS system must be able to conduct two unrefueled orbits at 600 nautical miles or one unrefueled orbit at 1,200 nautical miles. In lightly contested environments, it must be able to conduct strike missions out to 2,000 nautical miles. The drone must be able to lift a 3,000-pound payload, made up primarily of sensors but including 1,000 pounds of air-to-surface weapons such as the 500-pound Joint Direct Attack Munitions (JDAMS) and the Small Diameter Bomb II. Even with such capabilities, contractors will have to keep the price-tag for UCLASS under $150 million, not including items such as sensor packages, weapons, spare parts, and training.¶ The modest performance parameters indicate that, despite the potential, once the UCLASS system gets off the ground, the Navy will take a cautious, step-by-step approach. The focus on the ISR and light-attack missions means that UCLASS drones do not require high speed, extreme agility, or even stealth features. This, in turn, will simplify design and production and, in a time of growing austerity, reduce cost. Just as important, the UCLASS will fill a significant void in carrier-based long-endurance/long-distance ISR, essentially doubling the duration of these operations. The limited air-to-ground capability envisioned for the UCLASS drone means that it will supplement—but not replace—the primary strike force of the carrier air wing, the F/A-18 E/F (and soon the F-35C as well).¶ As currently envisioned, the new system will be only a small step toward defining the carrier air wing of the future. But if it succeeds and is expanded, UCLASS—and the systems that follow it—could prove to be important elements in the debate over future missions for the modern aircraft carrier and how many CVNs to retain in the Fleet.¶ It’s been a long time since there was a serious discussion about the future of the aircraft carrier. Yet, with growing frequency and intensity, Navy strategists (and periodicals such as Proceedings ) have been questioning the central place given to the CVN in Navy strategy and shipbuilding plan The issue that has drawn the greatest attention is how vulnerable critics say the aircraft carrier has become in the face of a number of emerging threats. China has developed new antiship ballistic missiles with guided warheads, which seem designed to target large naval vessels such as carriers. 2 And potential U.S. adversaries have acquired a raft of new weapons for anti-access and area-denial (A2/AD) operations, from manned aircraft and sea-skimming cruise-missiles that can be delivered from land, sea, or air to diesel-electric submarines. Taken together, the critics contend, these will place the United States’ entire surface Navy at greater risk and force the carrier strike group to take additional protective measures that could include operating farther from hostile shores or even restricting overall offense operations significantly. ¶ A second issue, which has gained greater prominence in the face of congressional calls for deep defense spending cuts, is the cost of naval aviation—from building and maintaining aircraft carriers to deploying their air wings and supporting vessels. The soaring cost overruns and construction delays in the production of the USS Gerald R. Ford (CVN-78), the first of a new class of Navy super-carriers, have raised concerns both within the Navy and on Capitol Hill. 4 At the same time, the cost of the carrier air wing is rising visibly even though it is shrinking in size. 5 Navy leadership and a number of outside experts have offered a spirited defense of the Ford -class carriers. 6¶ The third challenge—and the most central for the future of the UCLASS drone and its successors—is that of making sure that the future carrier air wing (CVW) is effective. Early assessments of the potential for UAVs to enhance the utility of the carrier air wing focused on the value of their greater range and persistence. 7 As Representative J. Randy Forbes (R-VA), chairman of the House Armed Services subcommittee on seapower and projection forces, has argued, the issues of reach and persistence remain the most serious weaknesses of the CVW—particularly in the face of the Obama administration’s new, more intense focus on Asia.¶ [T]he long distances in the region, combined with A2/AD challenges, raise questions about the future strike power of the Carrier Air-Wing (CVW). As we posture our forces, is the planned CVW of the 2020s structured to meet the range, persistence, stealth, ISR, and payload demands that will be required to operate in this theater? 8

**Causes conflict with China over the SCS and Senkaku Islands**

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A recent query from a colleague asked a very simple question: If America’s AirSea Battle (ASB) was ever called into service against China’s anti-access/area denial strategy (A2/AD), who wins?¶ Yikes. The simple answer, without making loyal Diplomat readers suffer through a 10,000 word academic slog is… no one.¶ But first, allow me to back track a bit. One key aspect of both ideas that gets lost in the mix is in what situations conflict could occur and the possible escalatory nature of such a conflict. When it comes to a potential showdown between ASB and A2/AD, the devil is truly in the details. While pundits love asking and analyzing what weapons could be deployed and how they would be used, the situation in which such weapons come into play and what happens next is equally important. Context in a situation like this matters.¶ Let us consider for a moment the possible flashpoints in which U.S. and Chinese forces could clash. The two that come to mind would be some sort of escalatory crisis over the Senkaku/Diaoyu Islands or a situation involving territorial tensions in the South China Sea.¶ Of the two, the greatest chance of conflict — albeit remote despite current tensions — would be some sort of China-Japan conflict in the East China Sea. The most likely scenario would involve an accidental collision of maritime vessels or aircraft. Diplomatic efforts fail and for some reason, someone escalates matters and attempts to either land troops on the disputed islands or shooting accidently begins. In such a scenario, let’s assume American forces come to Japan’s aid.¶ So what happens next? Making predictions on such a scenario is nearly impossible, but we can draw some conclusions from the writings of Chinese and American scholars on the subject. ¶ When considering China’s A2/AD strategy, one popular theory is that China would go all in – launching massive saturation missile strikes on American and Japanese bases to gain the advantage and attain victory quickly. Missiles of various ranges and capabilities could be launched on allied airfields early to negate any advantage in technology or training. Anti-ship weapons would be used in mass to cripple naval forces – cruise and ballistic missiles specifically. Sea mines and submarines could be positioned around the disputed islands in an effort to deter reinforcements from deploying to the area. Anti-satellite weapons could be employed to blind allied forces and damage vital C4ISR, and cyber weapons could be utilized to gain the upper hand.¶ Many Chinese strategists even make the argument that it is to Beijing’s advantage to attack first, in mass and with overwhelming force – a Chinese missile-centric “shock and awe” if you will.¶ How would America and its allies respond? Again, making such predictions is difficult and much would depend on who struck first. If we assume a Chinese opening assault, first and foremost, American and allied forces would attempt to retain access to sea lines of communication (SLOC) and the ability to move forces into the area of dispute in order to bring overwhelming military power to bear.¶ Defense against Chinese missiles could prove a challenge if the number of missiles employed in offensive operations was greater than the number of interceptors available. American forces — if intelligence assets could detect an impending launch — could attempt a preemptive strike on Chinese conventional missile forces. They could also employ cyber strikes against the guidance and navigation systems of such weapons, in order to avoid escalating the situation by attacking the Chinese mainland. U.S. military planners would also seek to degrade Chinese command and control systems in an effort to blind the ability of PLA forces to conduct operations in any sort of synergizedway.

**A2AD capabilities give China an assymetric advantage over the US – causes first strike and escalation**

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The first article, from the good folks over at Breaking Defense, discusses the well-worn subject in defense circles revolving around China striking U.S. forces first in a possible conflict—namely a massive conventional strike (most scholars argue by missiles of various types). The scary part according to the piece: “Because China believes it is much weaker than the United States, they are more likely to launch a massive preemptive strike in a crisis.” Yikes.¶ The second article is brought to us by distinguished University of Pennsylvania Professor Avery Goldstein courtesy of Foreign Affairs. Goldstein explains that “For at least the next decade, while China remains relatively weak compared to the United States, there is a real danger that Beijing and Washington will find themselves in a crisis that could quickly escalate to military conflict.”¶ Some heavy stuff for sure. To be fair to both pieces, I would encourage Flashpoints readers to look at the finer points of both articles—there is a lot to absorb beyond these few points I bring to your attention. ¶ Indeed, the idea of escalation and preemptive strikes by China has been discussed in various circles for several years now. For numerous reasons that scholars consider, such as history, the current nature of military technology or the various arguments made by Chinese academics advocating such a military posture, many feel that it would be very much in Beijing's interests to strike hard and decisively. In an interview I conducted with noted scholar Roger Cliff last year, he explained that many U.S. air bases that are close to China have few hardened facilities to protect themselves from a missile strike. This makes them sitting ducks in a conflict. ¶ But what conditions would compel China to strike? Not any easy question to answer for sure.¶ It seems very few are asking the question of motivation for such an attack—or the repercussions that would follow.¶ It’s one thing to speculate about such ideas, but it’s not so easy to develop an actual model that has Beijing dreaming up a cost-benefit analysis concluding that a strike on American forces is in its national interest. With two-way trade between China and America at over half a trillion dollars per year, robust cultural ties, and most of China’s sea lines of communication (SLOCs) open to strike by the American navy (such that transporting much needed natural resources by sea is a tricky enterprise), there seems to be plenty of incentive to think twice. Yet, because of what many argue are growing tensions in the U.S.-China relationship, people like myself are forced to consider such nightmare scenarios.¶ So let us broadly consider for a moment that China does decide to strike: how would America respond? In a word: robustly.¶ Americans might not be able to do things like draw up budgets on time, or not come perilously close to defaulting on the national debt, but one thing China can count on is that Americans will rally around the good old red, white and blue in times of national emergency, especially when attacked by a foreign power.¶ We must also consider that if a crisis did break out between the U.S. and China, both sides would have a new domain to strike in, one with the possibility of doing tremendous damage with some measure of deniability: cyber. One could imagine a scenario where if a crisis began to brew, Beijing would launch a preemptive cyber-strike on an important U.S. target or attack something of marginal value to send a message or demonstrate resolve. In the 21st century, there is no need to fire a shot across your enemy's bow or a missile to send your message – a well-placed piece of malware could carry your message with an even more sobering effect.¶ There is also this question of Chinese self-perceived weakness compared to U.S. forces. It is clear that Beijing rightly understands that in the near-term it can’t match American forces in a direct, symmetrical matchup. No matter, that is why Beijing has embraced an A2/AD strategy. Developing weapons such as anti-ship ballistic missiles gives Beijing an asymmetric advantage; one U.S. forces can’t take lightly anymore.

#### That goes nuclear

**Kulacki 12**, Gregory, Senior Analyst & China Project Manager for the Global Security Program at the Union of Concerned Scientists, “The Risk of Nuclear War with China,” 9/21, <http://www.huffingtonpost.com/gregory-kulacki/the-risk-of-nuclear-war-w_b_1903336.html>

Last week two separate studies warned that China and the United States are pursuing military strategies and implementing defense policies that could lead to a nuclear war. John Lewis and Xue Litai of Stanford University concluded a detailed exposition of China's nuclear war plans with a very sober warning. "Both sides, clinging to incongruous assessments, run the risk of provoking unanticipated escalation to nuclear war by seeking a quick victory or tactical advantages in a conventional conflict. This dilemma is not only real, but perilous." Thomas Christensen of Princeton expressed concern about the same problem; the possibility that a conventional military conflict between the United States and China could end in a nuclear exchange. "For example, if strikes by the United States on China's conventional coercive capabilities or their critical command and control nodes and supporting infrastructure were to appear in Beijing as a conventional attack on its nuclear retaliatory capability or as a precursor to a nuclear first strike, even a China that generally adheres to a No-First-Use posture might escalate to the nuclear level." Neither study suggests that the military or political leadership of China or the United States intends to resort to nuclear weapons in the event of a military conflict. China's commitment not to be the first to use nuclear weapons "at any time under any circumstances" is drilled into the officers and soldiers of China's strategic missile forces. A classified text used to train those forces, The Science of Second Artillery Operations, unambiguously instructs, "In accord with our national principle not to be the first to use nuclear weapons under any circumstances, the Second Artillery's strategic nuclear forces can carry out a retaliatory nuclear attack against the enemy, following the command of the 'high leadership,' only after the enemy has first attacked us with nuclear weapons." Although the United States is unwilling to make a similar commitment, U.S. superiority in conventional weapons and overall military capabilities makes it unlikely the United States would consider using nuclear weapons for any purpose other than preventing a Chinese nuclear attack on the United States. The most recent U.S. Nuclear Posture Review, in an effort to deemphasize the role of nuclear weapons in U.S. defense policy, declared that the "fundamental role of U.S. nuclear weapons...is to deter a nuclear attack on the United States, our allies and partners." The risk of a nuclear war with China lies in the potential for misunderstanding or miscommunication during a conventional conflict. China's current strategy for employing its conventional and nuclear missile forces during a future conflict with the United States is self-consciously designed to create uncertainty, with the expectation that uncertainty will restrain U.S. military action. Unfortunately, China's strategy could also precipitate a large-scale U.S. attack on China's missile forces. There are several Chinese military policies that might confuse U.S. decision-makers in a time of war. Some Chinese conventional missiles are located on the same missile bases as Chinese nuclear missiles. Some Chinese missiles, particularly the DF-21, can be armed with either a conventional or a nuclear warhead. Chinese conventional war plans call for long-range "strategic" conventional missile strikes at key enemy targets, including U.S. military bases on allied soil and the continental United States. If this were not confusing enough already, The Science of Second Artillery Operations contains a section on "lowering the nuclear threshold" that details procedures for alerting China's nuclear forces in a crisis for the express purpose of forcing a halt to an enemy's conventional attacks on a select group of targets, such as Chinese nuclear power plants, large dams and civilian population centers. Although the Science of Second Artillery Operations unambiguously states that if alerting China's nuclear missile forces fails to halt conventional enemy attacks China will hold firm to its "no first use" commitment, U.S. decision-makers might not believe it. Indeed, U.S. interlocutors have repeatedly told their Chinese counterparts that they do not find China's "no first use" pledge credible. The combination of these factors makes a nuclear exchange between the United States and China not only plausible, but also probable if the two countries were to become embroiled in a military conflict. As Lewis and Xue explain, "If, in a time of high tension, the Chinese command authorized a conventional missile attack as an act of preemptive self-defense, the enemy and its allies could not know if the incoming missiles were conventional or nuclear. In a worst-case scenario, a Chinese first-strike conventional attack could spark retaliation that destroys Chinese nuclear assets, creating a situation in which escalation to full-scale nuclear war would not just be possible, but even likely." The Obama administration is "rebalancing" U.S. military forces in response to perceived relative increases in Chinese military capabilities. China sees this so-called "pivot" to Asia, especially when pared with new U.S. military strategies such as "Air-Sea Battle," as a policy of containment. Both sides downplay the risks of conflict, but they also see each other as potential adversaries, and are hedging their diplomatic bets with expensive investments in new military hardware, including new technologies that will expand the conflict into cyberspace and outer space. Territorial disputes between China and U.S. allies, rising nationalist sentiment in the region, and the potential for domestic political instability within China could produce any number of casussen belli that could trigger the conventional conflict that carries the risk of ending in a nuclear war.

**Iran’s developing A2AD capabilities to close the Strait of Hormuz – causes oil price spikes and economic collapse**

**Isenberg 12**, David, adjunct scholar with the Cato Institute, a US Navy veteran, and the author of the book, Shadow Force: Private Security Contractors in Iraq [“Iran well prepared for the worst,” January 31st, <http://www.atimes.com/atimes/Middle_East/NA31Ak02.html>]

According to the report published by the Center for Strategic and Budgetary Assessments (CSBA), "Iran, in particular, has been investing in new capabilities that could be used to deter, delay or prevent effective US military operations in the Persian Gulf. Iran's acquisitions of weapons that it could use to deny access to the Gulf, control the flow of oil and gas from the region, and conduct acts of aggression or coercion, are of grave concern to the United States and its security partners." The report, "Outside-In: Operating from Range to Defeat Iran's Anti-Access and Area-Denial Threats" [1] notes that Iran has been preparing for a possible military confrontation with the United States for decades. Instead of engaging in a direct military competition, which would be pitting its weaknesses against US strengths, Iran has developed an asymmetric "hybrid" A2/AD strategy that mixes advanced technology with guerilla tactics to deny US forces basing access and maritime freedom of maneuver. Even if Iran did not disrupt Gulf maritime traffic for long, it could still have a devastating impact. A recent report by the International Monetary Fund (IMF) found that Iran's closure of the Strait of Hormuz would "neutralize a large part of current OPEC [Organization of Petroleum Exporting Countries] spare capacity," saying "alternative routes exist, but only for a tiny fraction of the amounts shipped through the strait, and they may take some time to operationalize while transportation costs would rise significantly." "A blockade of the Strait of Hormuz would constitute, and be perceived by markets to presage, sharply heightened global geopolitical tension involving a much larger and unprecedented disruption," it said. The IMF said that "supply disruption would likely have a large effect on prices, not only reflecting relatively insensitive supply and demand in the short run but also the current state of oil market buffers". "A halt of Iran's exports to OECD [Organization for Economic Cooperation and Development] economies without offset from other sources would likely trigger an initial oil price increase of around 20-30% (about US$20-30 a barrel currently), with other producers or emergency stock releases likely providing some offset over time," the report showed. It stressed that "a Strait of Hormuz closure could trigger a much larger price spike, including by limiting offsetting supplies from other producers in the region". "**If you could cut off oil flow for even several weeks the global economy would be in depression.** That would be a serious price to pay; it is a sobering thought," according to Patrick Cronin, a senior advisor at the Center for a New American Security, a Washington DC think-tank.

#### Oil shocks cause war

**Roberts 04** (Paul, Regular Contributor to Harpers and NYT Magazine, “The End of Oil: On The Edge of a Perilous New World”, p. 93-94)

The obsessive focus on oil is hardly surprising, given the stakes. In the fast-moving world of oil politics, oil is not simply a source of world power, but a medium for that power as well, a substance whose huge importance enmeshes companies, communities, and entire nations in a taut global web that is sensitive to the smallest of vibrations. A single oil "event" — a pipeline explosion in Iraq, political unrest in Venezuela, a bellicose exchange between the Russian and Saudi oil ministers — sends shockwaves through the world energy order, pushes prices up or down, and sets off tectonic shifts in global wealth and power. Each day that the Saudi-Russian spat kept oil supplies high and prices low, the big oil exporters were losing hundreds of millions of dollars and, perhaps, moving closer to financial and political disaster — while the big consuming nations enjoyed what amounted to a massive tax break. Yet in the volatile world of oil, the tide could quickly turn. A few months later, as anxieties over a second Iraq war drove prices up to forty dollars, the oil tide abruptly changed directions, transferring tens of billions of dollars from the economies of the United States, Japan, and Europe to the national banks in Riyadh, Caracas, Kuwait City, and Baghdad, and threatening to strangle whatever was left of the global economic recovery. So embedded has oil become in today's political and economic spheres that the big industrial governments now watch the oil markets as closely as they once watched the spread of communism — and with good reason: six of the last seven global recessions have been preceded by spikes in the price of oil, and fear is growing among economists and policymakers that, in today's growth-dependent, energy-intensive global economy, oil price volatility itself may eventually pose more risk to prosperity and stability and simple survival than terrorism or even war.

**Economic collapse leads to extinction**

**Kemp 10**

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

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

**Best studies prove growth solves conflict**

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

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 lends to amplify the extent to which international and external conflicts self-rein force each other. (Blombcrj! & 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 (1996), DeRouen (1995), and Blombcrg. Mess, 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 arr 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.

**Drones make carriers cost-effective – keeps carriers around by making them valuable**

**Goure 13** - vice president at the Lexington Institute in Arlington, Virginia, where he specializes in national security <Daniel. “Drones to The Rescue!” September 2013. <http://www.usni.org/magazines/proceedings/2013-09/drones-rescue>>

The current budget squeeze has revived the debate about whether to reduce the number of the Navy’s aircraft carriers, but the prospective addition of unmanned aerial vehicles to the flattop’s arsenal will make the ships even more valuable in coming years.¶ When the X-47B Salty Dog 502 became the first drone to land on an aircraft carrier in July, Navy officials properly hailed the event as a technological milestone. Not only did the unmanned aerial vehicle (UAV) catapult from the flight deck of the USS George H. W. Bush (CVN-77) and successfully perform touch-and-go exercises and two landings, catching the tailhook wire with precision, but it did all of that autonomously, using its own robot “brain” of complex algorithms without need of a human drone operator as most other UAVs require. “It’s not often you get a chance to see the future, but that is what we got today,” Secretary of the Navy Ray Mabus declared after the demonstration.¶ But the success of the X-47B landing marked more than just a technological achievement; it also injected a new element into the recently revived strategic debate over how many aircraft carriers the Navy will need in coming years. As part of an advanced surveillance-and-strike system that the Navy is developing, drones will soon be able to conduct long-range, ’round-the-clock intelligence-gathering missions and aerial attacks that will make carriers cheaper to build, less costly to operate, and far more effective, and will spawn radical changes in the way the Navy uses them. As a result, the addition of the drone to the naval aviation carrier force may prove to be a major factor in saving the flattop from becoming an endangered species.¶ The issue is important because, as anyone who has been following the recent budgetary developments in Washington knows, the future of the carrier is under increasing stress. Critics have contended that the Navy’s longstanding strategy of building the Fleet around a core of 11 nuclear aircraft carriers is becoming too expensive, and that the concept has been unable to keep pace with the rapidly growing array of threats from potential adversaries. And with the retirement of aging aircraft systems such as the A-6 and the S-3, some say the overall striking power of the carrier air wing has declined.¶ Indeed, Secretary of Defense Chuck Hagel disclosed on 31 July that one of the largest potential spending cuts that a “strategic choices and management review” panel suggested earlier this year was to reduce the number of carrier strike groups from the current 11 to a new level of only eight or nine. “The basic tradeoff is between capacity . . . and our ability to modernize weapons systems and to maintain our military’s technological edge,” the secretary said.¶ It’s here that the X-47B’s mid-July milestone was especially significant. The drone was developed as part of the Navy’s effort to design and test a UAV-centered unmanned combat air system. During the week that the Bush demonstration was being conducted, the Navy invited four defense contractors to submit preliminary design studies for an unmanned carrier-launched airborne surveillance and strike system, known as UCLASS. The Navy’s hope is to conduct an open competition in Fiscal Year 2014 that will result in the deployment of an operational system by FY 20.¶ The key performance parameters set out in the Navy’s invitation answered several lingering questions about the operational concept for UCLASS. The system’s primary role will be to conduct long-distance intelligence-gathering, surveillance, and reconnaissance (ISR), and to improve targeting. According to published documents, the UCLASS system must be able to conduct two unrefueled orbits at 600 nautical miles or one unrefueled orbit at 1,200 nautical miles. In lightly contested environments, it must be able to conduct strike missions out to 2,000 nautical miles. The drone must be able to lift a 3,000-pound payload, made up primarily of sensors but including 1,000 pounds of air-to-surface weapons such as the 500-pound Joint Direct Attack Munitions (JDAMS) and the Small Diameter Bomb II. Even with such capabilities, contractors will have to keep the price-tag for UCLASS under $150 million, not including items such as sensor packages, weapons, spare parts, and training.¶ The modest performance parameters indicate that, despite the potential, once the UCLASS system gets off the ground, the Navy will take a cautious, step-by-step approach. The focus on the ISR and light-attack missions means that UCLASS drones do not require high speed, extreme agility, or even stealth features. This, in turn, will simplify design and production and, in a time of growing austerity, reduce cost. Just as important, the UCLASS will fill a significant void in carrier-based long-endurance/long-distance ISR, essentially doubling the duration of these operations. The limited air-to-ground capability envisioned for the UCLASS drone means that it will supplement—but not replace—the primary strike force of the carrier air wing, the F/A-18 E/F (and soon the F-35C as well).¶ As currently envisioned, the new system will be only a small step toward defining the carrier air wing of the future. But if it succeeds and is expanded, UCLASS—and the systems that follow it—could prove to be important elements in the debate over future missions for the modern aircraft carrier and how many CVNs to retain in the Fleet.¶ It’s been a long time since there was a serious discussion about the future of the aircraft carrier. Yet, with growing frequency and intensity, Navy strategists (and periodicals such as Proceedings ) have been questioning the central place given to the CVN in Navy strategy and shipbuilding plans. 1¶ The issue that has drawn the greatest attention is how vulnerable critics say the aircraft carrier has become in the face of a number of emerging threats. China has developed new antiship ballistic missiles with guided warheads, which seem designed to target large naval vessels such as carriers. 2 And potential U.S. adversaries have acquired a raft of new weapons for anti-access and area-denial (A2/AD) operations, from manned aircraft and sea-skimming cruise-missiles that can be delivered from land, sea, or air to diesel-electric submarines. Taken together, the critics contend, these will place the United States’ entire surface Navy at greater risk and force the carrier strike group to take additional protective measures that could include operating farther from hostile shores or even restricting overall offense operations significantly. 3¶ A second issue, which has gained greater prominence in the face of congressional calls for deep defense spending cuts, is the cost of naval aviation—from building and maintaining aircraft carriers to deploying their air wings and supporting vessels. The soaring cost overruns and construction delays in the production of the USS Gerald R. Ford (CVN-78), the first of a new class of Navy super-carriers, have raised concerns both within the Navy and on Capitol Hill. 4 At the same time, the cost of the carrier air wing is rising visibly even though it is shrinking in size. 5 Navy leadership and a number of outside experts have offered a spirited defense of the Ford -class carriers. 6¶ The third challenge—and the most central for the future of the UCLASS drone and its successors—is that of making sure that the future carrier air wing (CVW) is effective. Early assessments of the potential for UAVs to enhance the utility of the carrier air wing focused on the value of their greater range and persistence. 7 As Representative J. Randy Forbes (R-VA), chairman of the House Armed Services subcommittee on seapower and projection forces, has argued, the issues of reach and persistence remain the most serious weaknesses of the CVW—particularly in the face of the Obama administration’s new, more intense focus on Asia.¶ [T]he long distances in the region, combined with A2/AD challenges, raise questions about the future strike power of the Carrier Air-Wing (CVW). As we posture our forces, is the planned CVW of the 2020s structured to meet the range, persistence, stealth, ISR, and payload demands that will be required to operate in this theater? 8¶ The CVW of the near-future also is in flux. The F/A-18 E/F will play a significant role in both air-to-air and air-to-ground missions for the next several decades. The F-35C, long styled as the eventual centerpiece of the air wing, soon will be deployed. The EF-18G Growler is on the decks and will be upgraded with the Next-Generation Jammer. The Navy plans to acquire 75 E-2D Advanced Hawkeyes, which provide a leap forward in airborne ISR and networked fire control, but production of these is slowing. Finally, the MH-60R will provide a substantial increase in the CVW’s antisubmarine warfare capabilities.¶ Yet, if UCLASS is to be anything more than a show horse, it must pull its weight in the continuing evolution of the CVW. This means that its designers will have to address some of the challenges facing the carrier and the air wing and also set the stage for exploiting the full potential of the new Ford -class CVN.¶ The Navy’s invitation to contractors clearly is designed to produce a UCLASS drone system that will be a workhorse for the CVW. In its ISR role, UCLASS will significantly expand the carrier strike group’s ability to see, assess, and respond to threats. This is of particular importance in the context of the Asia-Pacific pivot as well as the proliferation of longer-range antiship missiles. Equally important, UCLASS will make it possible for a single air wing to conduct ’round-the-clock air and maritime surveillance. Finally, in its light-attack role, UCLASS will expand both the reach and flexibility of the air wing, allowing the more capable F/A-18 E/Fs and F-35s to be employed where their advanced features are most appropriate. The ability of the UCLASS to loiter while carrying heavier weapons than a Hellfire missile will be especially valuable in low-intensity conflicts, where exquisite precision strikes have become the norm. 9¶ Flexibility will be another important attribute for the winning UCLASS design. Given rapid advances in sensors, weapons, and networking, the UCLASS needs to have inherent flexibility and some room for growth to allow the carrier air wings to experiment with it and incorporate lessons learned from the system’s initial employment.¶ Over the longer-term, for the current challenges to the continuation of the aircraft carrier as the Navy’s primary ship, designers of the UCLASS will have to integrate the new program into the operational policies of the carrier air wing and exploit the inherent strengths of the Ford -class CVNs. In his speech marking the successful carrier landing of the X-47B, Navy Secretary Mabus suggested how unmanned systems will address all three of the challenges to the aircraft carrier.¶ The operational unmanned aircraft that will follow it will radically change the way presence and combat power is delivered from aircraft carriers by conducting surveillance and strike missions at extreme distances and over very long periods of time. With this advanced technology, we will put fewer sailors and Marines in harm’s way, and we will push the area of potential action even farther from the decks of our ships.¶ And it’s more efficient. Because unmanned carrier aircraft do not require flights to maintain pilot proficiency, they will deploy only for operational missions, saving fuel costs and extending the service life of the aircraft.¶ Not only will future carrier air wings be more combat- effective, they will cost less to build, and having less- expensive airframes means we can build more and use them differently, like developing swarm tactics and performing maneuvers that require more G-force than a human body can withstand.

**Specifically, drones are key to make carriers A2AD resistant by enhancing range of attack and flexibility**

**Goure 13**, Daniel, vice president at the Lexington Institute, “Drones to the Rescue,” September, http://www.usni.org/magazines/proceedings/2013-09/drones-rescue

The issue that has drawn the greatest attention is how vulnerable critics say the aircraft carrier has become in the face of a number of emerging threats. China has developed new antiship ballistic missiles with guided warheads, which seem designed to target large naval vessels such as carriers. 2 And potential U.S. adversaries have acquired a raft of new weapons for anti-access and area-denial (A2/AD) operations, from manned aircraft and sea-skimming cruise-missiles that can be delivered from land, sea, or air to diesel-electric submarines. 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The ability of the UCLASS to loiter while carrying heavier weapons than a Hellfire missile will be especially valuable in low-intensity conflicts, where exquisite precision strikes have become the norm. 9 Flexibility will be another important attribute for the winning UCLASS design. Given rapid advances in sensors, weapons, and networking, the UCLASS needs to have inherent flexibility and some room for growth to allow the carrier air wings to experiment with it and incorporate lessons learned from the system’s initial employment. Over the longer-term, for the current challenges to the continuation of the aircraft carrier as the Navy’s primary ship, designers of the UCLASS will have to integrate the new program into the operational policies of the carrier air wing and exploit the inherent strengths of the Ford -class CVNs. In his speech marking the successful carrier landing of the X-47B, Navy Secretary Mabus suggested how unmanned systems will address all three of the challenges to the aircraft carrier.

## Solvency

#### Text: The United States Congress should revise Public Law 107-40 to establish a specific list of terrorist organizations that suffice to trigger the use of military force with the provision that the President can propose to add new groups to the list.

#### Presidential use of drone strikes is on its last straw, reform of the AUMF stops court strikedown

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The law that forms the foundation of the war on terror is almost obsolete, undermining the legal basis of U.S. counterterrorism operations. On Thursday, the Senate Armed Services Committee will take a long-overdue first step to fix this problem, a development we should all applaud.¶ On September 14, 2001, Congress passed the Authorization for Use of Military Force (AUMF), authorizing “all necessary and appropriate force against those nations, organizations, or persons” behind the 9/11 attacks. Over a decade later, al-Qaida, the group that perpetrated the attacks, is on the ropes. But other armed groups – like the Haqqani Network, al-Shabab, and al-Qaida in the Islamic Maghreb – have become targets of the Obama administration’s worldwide counterterrorism efforts. The statute’s explicit reference to the 9/11 attacks, however, means it can’t authorize military action against groups with only superficial links to al-Qaida. In the wake of 9/11, the AUMF provided legal authority and demonstrated congressional support for the U.S. invasion of Afghanistan. But the Bush administration soon abandoned the AUMF, justifying the war on terror on the basis of the president’s inherent constitutional powers as commander-in-chief. These interpretations were soon discredited, both in the court of public opinion and in actual courts, with the Supreme Court repeatedly chastising the Bush administration’s legal approach to counterterrorism.¶ In a laudable attempt to bring U.S. counterterrorism policy back within the rule of law, the Obama administration has invoked the AUMF as the basis for its global “targeted killing” operations, known by most simply as “drone strikes.” But, like its predecessor, this administration has also stretched the law to serve its purposes, and is currently contemplating even more implausible interpretations of the AUMF. The president and his legal team are pushing us closer to a place where every terrorist is a member of al-Qaida.¶ How we justify counterterrorism operations is not just a question for the lawyers – it’s a policy choice with far-reaching domestic and international implications. Military might and covert operations alone can’t win the global struggle against al-Qaida and its ideological comrades-in-arms. We need credible arguments too, both to secure support from potential partners and undermine extremist justifications. As former Defense Department general counsel Jeh Johnson argued, “we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge.” The administration has already read nearly all meaning out of the legal concepts of “imminence” and “hostilities” — another far-fetched legal interpretation might be the last straw for the administration’s legitimacy in the arena of counterterrorism. Alternatives to the AUMF exist, but they’re not good. Relying on inherent presidential power runs into considerable legal and political difficulties. Legally, this approach would risk intervention by a Supreme Court with a willingness to strike down excessive claims of executive power. Politically, it would be difficult to sustain for a president who ran for office largely on the promise of repudiating Bush-era legal excesses.¶ A rationale base d on the international law of self-defense is similarly unappealing. Although the Obama administration maintains that the AUMF “does not authorize military force against anyone the Executive labels a ‘terrorist,’” using this legal argument would lead to precisely that result, usurping Congress’s constitutionally provided role in national security policy. Since the United States plays an important role in setting norms of international conduct, our government should not claim legal rights that it is not prepared to see proliferate around the globe. UN officials recognize that the Obama administration’s “expansive and open-ended interpretation of the right to self-defense threatens to destroy the prohibition on the use of armed force.” CIA director John Brennan noted in 2012 that U.S. drone strikes “are establishing precedents that other nations may follow” – a concern that is already materializing.¶ With international armed groups unlikely to disappear any time soon, one option rises above the rest: it’s time for a new AUMF. President Obama is understandably reluctant to legally entrench President Bush’s war on terror, but a properly drafted law could provide legitimacy to existing operations and constrain future presidents. Indeed, our concern shouldn’t be a new counterterrorism statute, but what happens in its absence.¶ A new AUMF should not provide a blanket authorization to kill anyone the president considers an enemy. Instead, it should create a framework for continued counterterrorism operations that addresses which groups are valid targets, the circumstances under which they can be targeted, and where such operations can occur. Unlike the current AUMF, a new law should include an expiration date, but not be legally tied to any specific event

#### Current AUMF criteria means theres no executive authority to strike emerging threats – the plan is key

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Since September 18, 2001, a joint resolution of Congress known as the Authorization to Use Military Force (AUMF) has served as the primary legal foundation for the “war on terror.” In this essay we explain why the AUMF is increasingly obsolete, why the nation will probably need a new legal foundation for next-generation terrorist threats, what the options are for this new legal foundation, and which option we think is best. ¶ The AUMF authorizes the president to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, . . . .” The authorization of “force” in the AUMF is the main legal basis for the president’s power to detain and target members of al Qaeda and The Taliban. In addition, since September 11, Congress, two presidential administrations, and the lower federal courts have interpreted the “force” authorized by the AUMF to extend to members or substantial supporters of the Taliban and al Qaeda, and associated forces.¶ The main reason the AUMF is becoming obsolete is that the conflict it describes – which on its face is one against the perpetrators of the September 11 attacks and those who harbor them – is growing less salient as U.S. and allied actions degrade the core of Al Qaeda and the U.S. military draws down its forces fighting the Taliban in Afghanistan. At the same time that the original objects of the AUMF are dying off, newer terrorist groups that threaten the United States and its interests are emerging around the globe. Some of the terrorist groups have substantial ties to al Qaeda and thus can be brought within the AUMF by interpretation.¶ For example, the President has been able to use force against al Qaeda in the Arabian Peninsula (“AQAP”), a terrorist organization in Yemen, because it is a supporter or associated force of al Qaeda. But this interpretive move is increasingly difficult as newer threatening groups emerge with dimmer ties, if any, to al Qaeda. As a result, we are reaching the end point of statutory authority for the President to meet terrorist threats.¶ We should emphasize at the outI kno set that we do not claim that the increasingly obsolete AUMF demands immediate amendment or alteration. We do not make this claim because we lack access to classified information that would indicate the full nature of the terrorist threats the nation faces, or their connection to al Qaeda, or the nation’s ability to meet the threat given current legal authorities.¶ We also recognize that any new force authorizations carry significant strategic and political consequences beyond their immediate operational consequences. We nonetheless believe strongly – based on public materials and conversations with government officials – that the AUMF’s usefulness is running out, and that this trend will continue and will demand attention, in the medium term if not in the short term. Our aim is to contribute to the conversation the nation will one day have about a renewed AUMF by explaining why we think one will be necessary and the possible shape it might take.¶ Part I of this paper explains in more detail why the AUMF is becoming obsolete and argues that the nation needs a new legal foundation for next-generation terrorist threats. Part II then describes the basic options for this new legal foundation, ranging from the President’s Article II powers alone to a variety of statutory approaches, and discusses the pros and cons of each option, and the one we prefer. Part III analyzes additional factors Congress should consider in any such framework.¶ I. ¶ The Growing Problem of Extra-AUMF Threats and the Need for a New Statutory Framework¶ In this Part we explain why the AUMF is growing obsolete and why a combination of law enforcement and Article II authorities, standing alone, is not an adequate substitute.¶ 1. The Growing Obsolescence of the AUMF¶ The September 2001 AUMF provides for the use of force against the entity responsible for the 9/11 attacks, as well as those harboring that entity. It has been clear from the beginning that the AUMF encompasses al Qaeda and the Afghan Taliban, respectively. This was the right focus in late 2001, and for a considerable period thereafter. But for three reasons, this focus is increasingly mismatched to the threat environment facing the United States. ¶ First, the original al Qaeda network has been substantially degraded by the success of the United States and its allies in killing or capturing the network’s leaders and key personnel. That is not to say that al Qaeda no longer poses a significant threat to the United States, of course. The information available in the public record suggests that it does, and thus nothing we say below should be read to suggest that force is no longer needed to address the threat al Qaeda poses. Our point is simply that the original al Qaeda network is no longer the preeminent operational threat to the homeland that it once was.¶ Second, the Afghan Taliban are growing increasingly marginal to the AUMF. As noted above, the AUMF extended to the Taliban because of the safe harbor they provided to al Qaeda. That rationale makes far less sense a dozen years later, with the remnants of al Qaeda long-since relocated to Pakistan’s FATA region. This issue has gone largely unremarked in the interim because U.S. and coalition forces all along have been locked in hostilities with the Afghan Taliban, and thus no occasion to reassess the AUMF nexus has ever arisen.¶ Such an occasion may well loom on the horizon, however, as the United States draws down in Afghanistan with increasing rapidity. To be sure, the United State no doubt will continue to support the Afghan government in its efforts to tamp down insurgency, and it also will likely continue to mount counterterrorism operations within Afghanistan. It may even be the case that at some future point, the Taliban will again provide safe harbor to what remains of al Qaeda, thereby at least arguably reviving their AUMF nexus. But for the time being, the days of direct combat engagement with the Afghan Taliban appear to be numbered. ¶ If the decline of the original al Qaeda network and the decline of U.S. interest in the Afghan Taliban were the only considerations, one might applaud rather than fret over the declining relevance of the AUMF. There is, however, a third consideration: significant new threats are emerging, ones that are not easily shoehorned into the current AUMF framework.¶ To a considerable extent, the new threats stem from the fragmentation of al Qaeda itself. In this sense, the problem with the original AUMF is not so much that its primary focus is on al Qaeda, but rather that it is increasingly difficult to determine with clarity which groups and individuals in al Qaeda’s orbit are sufficiently tied to the core so as to fall within the AUMF. And given the gravity of the threat that some of these groups and individuals may pose on an independent basis, it also is increasingly odd to premise the legal framework for using force against them on a chain of reasoning that requires a detour through the original, core al Qaeda organi zation.¶ ¶ The fragmentation process has several elements. First, entities that at least arguably originated as mere regional cells of the core network have established a substantial degree of organizational and operational independence, even while maintaining some degree of correspondence with al Qaeda’s leaders. Al Qaeda in the Arabian Peninsula (AQAP) is a good example. Al Qaeda in Iraq (AQI) arguably fits this description as well, though in that case one might point to a substantial degree of strategic independence as well.¶ Second, entities that originated as independent, indigenous organizations have to varying degrees established formal ties to al Qaeda, often rebranding themselves in the process. Al Qaeda in the Islamic Maghreb (AQIM), formerly known as the Salafist Group for Call and Combat, illustrates this path. Al Shabaab in Somalia arguably does as well. And then there are circumstances (such as the ones currently unfolding in Mali, Libya, and Syria) in which it is not entirely clear where the organizational lines lie among (i) armed groups that work in concert with or even at the direction of one of the aforementioned al Qaeda affiliates; (ii) armed groups that are sympathetic and in communication with al Qaeda; and (iii) armed groups that are wholly-independent of al Qaeda yet also stem from the same larger milieu of Salafist extremists.¶ This situation – which one of us has described as the emergence of “extra-AUMF” threats – poses a significant problem insofar as counterterrorism policy rests on the AUMF for its legal justification. In some circumstances it remains easy to make the case for a nexus to the original al Qaeda network and hence to the AUMF. But in a growing number of circumstances, drawing the requisite connection to the AUMF requires an increasingly complex daisy chain of associations – a task that is likely to be very difficult (and hence subject to debate) in some cases, and downright impossible in others.¶ The emergence of this problem should come as no surprise. It has been nearly a dozen years since the AUMF’s passage, and circumstances have evolved considerably since then. It was inevitable that threats would emerge that might not fit easily or at all within its scope. The question is whether Congress should do anything about this situation, and if so precisely what.

**Even if it doesn’t happen domestically backlash to secrecy causes allied kickout and rollback internationally**

**Zenko 13**, Micah, Fellow in the Center for Preventive Action at the Council on Foreign Relations “Reforming U.S. Drone Strike Policies,” January 2013, Council Special Report No. 65

Over the past decade, the use of unmanned aerial systems—commonly referred to as drones—by the U.S. government has expanded exponentially in scope, location, and frequency. From September 2001 to April 2012, the U.S. military increased its drone inventory from ﬁfty to seventy-ﬁve hundred—of which approximately 5 percent can be armed. Yet despite the unprecedented escalation of its ﬂeet and missions, the U.S. government has not provided a clear explanation of how drone strikes in nonbattleﬁeld settings are coordinated with broader foreign policy objectives, the scope of legitimate targets, and the legal framework. Drones are critical counterterrorism tools that advance U.S. interests around the globe, but this lack of transparency threatens to limit U.S. freedom of action and risks proliferation of armed drone technology without the requisite normative framework. Existing practices carry two major risks for U.S. interests that are likely to grow over time. The ﬁrst comes from operational restrictions on drones due to domestic and international pressure. In the United States, the public and policymakers are increasingly uneasy with limited transparency for targeted killings. If the present trajectory continues, drones may share the fate of Bush-era enhanced interrogation techniques and warrantless wiretapping—the unpopularity and illegality of which eventually caused the policy’s demise. Internationally, objections from host states and other counterterrorism partners could also severely circumscribe drones’ effectiveness. Host states have grown frustrated with U.S. drone policy, while opposition by nonhost partners could impose additional restrictions on the use of drones. Reforming U.S. drone strike policies can do much to allay concerns internationally by ensuring that targeted killings are defensible under international legal regimes that the United States itself helped establish, and by allowing U.S. officials to openly address concerns and counter misinformation. The second major risk is that of proliferation. Over the next decade, the U.S. near-monopoly on drone strikes will erode as more countries develop and hone this capability. The advantages and effectiveness of drones in attacking hard-to-reach and time-sensitive targets are compelling many countries to indigenously develop or explore purchasing unmanned aerial systems. In this uncharted territory, U.S. policy pro- vides a powerful precedent for other states and nonstate actors that will increasingly deploy drones with potentially dangerous ramiﬁcations. Reforming its practices could allow the United States to regain moral authority in dealings with other states and credibly engage with the international community to shape norms for responsible drone use. The current trajectory of U.S. drone strike policies is unsustainable. Without reform from within, drones risk becoming an unregulated, unaccountable vehicle for states to deploy lethal force with impunity. Consequently, the United States should more fully explain and reform aspects of its policies on drone strikes in nonbattleﬁeld settings by ending the controversial practice of “signature strikes”; limiting targeted killings to leaders of transnational terrorist organizations and individuals with direct involvement in past or ongoing plots against the United States and its allies; and clarifying rules of the road for drone strikes in nonbattleﬁeld settings. Given that the United States is currently the only country—other than the United Kingdom in the tra- ditional battleﬁeld of Afghanistan and perhaps Israel—to use drones to attack the sovereign territory of another country, it has a unique opportunity and responsibility to engage relevant international actors and shape development of a normative framework for acceptable use of drones. Although reforming U.S. drone strike policies will be difficult and will require sustained high-level attention to balance transparency with the need to protect sensitive intelligence sources and methods, it would serve U.S. national interests by ■allowing policymakers and diplomats to paint a more accurate portrayal of drones to counter the myths and misperceptions that currently remain unaddressed due to secrecy concerns; ■placing the use of drones as a counterterrorism tactic on a more legitimate and defensible footing with domestic and international audiences; increasing the likelihood that the United States will sustain the inter- national tolerance and cooperation required to carry out future drone strikes, such as intelligence support and host-state basing rights; ■exerting a normative inﬂuence on the policies and actions of other states; and ■providing current and future U.S. administrations with the requisite political leverage to shape and promote responsible use of drones by other states and nonstate actors.

#### A specific, public list of terrorist organizations allows flexibility and CT effectiveness while effectively limiting presidential power

**Barnes 12 -** J.D. Candidate, Boston University School of Law **¶** <Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2150874>>

1. Object¶ The object – who is the enemy—is perhaps the most difficult issue to¶ address.184 Finding an adequate solution must still address the threat from¶ Al Qaeda, while at the same time acknowledging both that Al Qaeda has¶ evolved into a diffuse, networked organization and that other terrorist¶ organizations now pose equal or greater threats than Al Qaeda.185 Merely¶ stating that a person or group constitutes part of an “associated force” of¶ Al Qaeda should not be sufficient to authorize military force.186 Congress¶ should adopt a hybrid approach in this circumstance, establishing a¶ specific list of organizations that would fall under a new AUMF.¶ Subsequently, if the President felt another organization should be added¶ to the list, he could propose this to Congress through an expedited¶ procedure. This would allow Congress to maintain a workable definition¶ of the enemy and provide the president with flexibility, while also¶ preventing ipso facto targeting determinations by the Executive Branch.¶ Because not all terrorist organizations are the same, and some pose little¶ or no threat to the United States, the fact of classification as a terrorist¶ group alone should not suffice to trigger the use of military force.187 Put¶ differently, classification as a “Foreign Terrorist Organization” would be¶ necessary but not sufficient for a renewed AUMF to apply.188 The¶ Executive Branch does not currently argue that the AUMF covers all of¶ the organizations on the Foreign Terrorist Organization list. Through¶ hearings and testimony, Congress should establish which terrorist¶ organizations merit the authorization of continuing military force.189 Recent legislation addressing the Lord’s Resistance Army—which¶ operates across South Sudan, the Central African Republic, the¶ Democratic Republic of the Congo, and northern Uganda190—could serve¶ as a model. Although not an explicit authorization for the use of military¶ force, Congress specifically legislated to “eliminate the threat posed by¶ the Lord’s Resistance Army.”191 Congress could undoubtedly direct¶ similar attention to other terrorist organizations.192¶ “Persons” should be addressed in a similar fashion—on a selective¶ and continuing basis by Congress. It will be a rare case in which an¶ individual who has no affiliation with a larger terrorist group poses a¶ significant threat to U.S. national security, but current policy nevertheless shows that individual designations are feasible.193 A policy¶ of selective individual designation would also allow policy flexibility in¶ the event that the President wishes to separate a dangerous individual¶ from a more benign organization.194¶ “Nations” should not be included in the new AUMF. If another¶ attack against the United States or its allies calls for an operation of a¶ scale similar to that in Afghanistan in October of 2001, Congress should¶ authorize that military action specifically. An armed conflict with a¶ country poses far too many risks for the Executive Branch to do so alone.¶ Within the specific context of the target of the AUMF, Congress¶ should address the process due to U.S. citizens under the Constitution. It¶ is not clear that U.S. citizens fighting in an armed conflict against the¶ United States need to be provided heightened process—judicial or¶ executive or other—before targeting decisions are made, but Congress¶ should nonetheless publicly describe the process that will be followed¶ when a U.S. citizen is involved.195 In a democracy such decisions are best made in the public eye.196 The recent successful targeting of Anwar¶ al-Awlaki, a U.S. citizen affiliated with Al Qaeda in the Arabian¶ Peninsula and operating in Yemen, demonstrated the American public’s¶ considerable skepticism toward military operations against U.S.¶ citizens.197 Even if an increased level of process is ultimately decided¶ upon, such a step would not overly burden the Executive Branch, as very¶ few U.S. citizens are part of terrorist groups in armed conflict with the¶ United States.198¶ Some would challenge the basis of public determinations about¶ organizational targets, but there is no reason that such a step would¶ impart any tactical advantage to a terrorist organization. Indeed, although¶ legal definitions and targeting determinations are not as clear today, it¶ seems logical that any terrorist organization targeted by the United States¶ knows it is being targeted. Furthermore, providing a regular review¶ process whereby the President proposes new groups for Congress to¶ include, as well as a defined sunset clause on each authorization, would¶ encourage those terrorist groups that have goals not actually at odds with¶ U.S. national interests to make their intentions known.199¶ Any approach to reauthorizing the AUMF should identify which¶ specific “incidents of warfare” it contemplates.200 Uncertainty regarding¶ the extent of authority diminishes the potential for military success; those¶ charged with fighting the global armed conflict against terrorist groups¶ should know precisely what is authorized. Moreover, policy clarity is a¶ virtue in a democracy, allowing the citizenry to more effectively monitor¶ the actions of its military. The reauthorized AUMF should specifically¶ include authorization for both detention and the lethal use of force, as¶ well as clear standards for both. These standards, discussing, for¶ example, how targeting decisions are made, should be public and¶ describe the differences in their application to U.S. citizens and noncitizens.¶ 201 The government need not disclose the specific weaponry¶ employed or tactics used, but it should indicate when lethal force will be¶ used against a threat that is not strictly imminent. To monitor potential¶ abuses, internal executive branch oversight should be intensified,¶ empowering either an independent board or inspector general to¶ investigate abuses of targeting authority. In the detention context,¶ meaningful review should be available for those detained; the word of¶ the Executive Branch alone should not be sufficient to render an¶ individual detainable.¶ Arguments will likely be made that disclosing targeting methods will¶ empower terrorists. It is unlikely, however, that those targeted today are¶ unaware of that fact. Clarity would also be a virtue, allowing those “on¶ the fence” to distance themselves from targetable terrorist groups.¶ Moreover, such a tactical disadvantage, assuming it is borne out in¶ reality, is a cost that should be accepted when the State targets its own¶ citizens.

#### Despite AUMF collapse global targeted killing is inevitable - Congressional action is key to legitimacy and allied support for counter-terror

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[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 10-2-13, mss]

The AUMF must inevitably expire because it is expressly linked to the September 11, 2001, attacks against the United States. Moreover, because of the impending downfall of Al Qaeda as we know it, the statute’s demise will come more quickly than most assume. Although the United States still faces myriad terrorist threats, the threat from Al Qaeda itself—the “core” group actually responsible for 9/11—is dissipating. So long as a substantial terrorist threat continues, however, the United States will require a framework within which to combat terrorist organizations and activities. Consequently, Congress should enact a new statute that supersedes the AUMF and addresses the major legal and constitutional issues relating to the use of force by the President that have arisen since the September 11 attacks and will persist in the foreseeable future. A. The AUMF’s Inevitable Expiration Although it is difficult to determine exactly when the AUMF will become obsolete, the mere fact that a precise date is unclear should not lead to the conclusion that the AUMF will be perpetually valid. Al Qaeda, the organization responsible for the September 11, 2001, attacks is considered by some to have been already rendered “operationally ineffective”102 and “crumpled at its core.”103 Moreover, even if Al Qaeda continues to possess the ability to threaten the United States,104 not all terrorist organizations currently possess a meaningful link to Al Qaeda, rendering the AUMF already insufficient in certain circumstances. Indeed, individuals from across the political spectrum have recognized that the AUMF’s focus on those involved in “the terrorist attacks that occurred on September 11, 2001” is outdated and no longer addresses the breadth of threats facing the United States.105 At a certain point, the terrorist groups that threaten the United States targets will no longer have a plausible or sufficiently direct link to the September 11, 2001, attacks.106 This shift has likely already occurred. Former Attorney General Michael Mukasey, writing recently in support of efforts to reaffirm the original AUMF, noted that currently “there are organizations, including the Pakistani Taliban, that are arguably not within its reach.”107 It is similarly unclear if the AUMF extends to organizations like Al Qaeda in the Arabian Penninsula, whose formation as a group—and connection to Al Qaeda’s “core”—postdates 9/11 and is indirect at best.108 Former State Department Legal Adviser John Bellinger has argued that the Obama Administration’s reliance on the AUMF for its targeted killing and detention operations is “legally risky” because “[s]hould our military or intelligence agencies wish to target or detain a terrorist who is not part of al-Qaeda, they would lack the legal authority to do so, unless the administration expands (and the federal courts uphold) its legal justification.”109 Indeed, “[c]ircumstances alone . . . will put enormous pressure on—and ultimately render obsolete—the legal framework we currently employ to justify these operations.”110 While the court of public opinion seems to have accepted the AUMF’s inevitable expiration, courts of law appear poised to accept this argument as well. Justice O’Connor’s plurality opinion in Hamdi admitted that the AUMF granted “the authority to detain for the duration of the relevant conflict.”111 She also suggested, however, that that authority would terminate at some point, based on “the practical circumstances of [this] conflict,” which may be “entirely unlike those of the conflicts that informed the development of the law of war.”112 Justice Kennedy’s opinion in Boumediene also hinted that the future contours of the war on terror might force the Court to revisit the extent of the conflict.113 Lower federal courts have already started to ask some of the questions about the duration of the AUMF’s authority, which the Supreme Court has left unaddressed to date.114 The Obama Administration has notably disagreed with these assessments, arguing that the AUMF “is still a viable authorization today.”115 The administration’s position, however, appears contradictory, as it has simultaneously described the limited reach of the AUMF as “encompass[ing] only those groups or people with a link to the terrorist attacks on 9/11, or associated forces”116 and celebrated the functional neutralization of Al Qaeda as a continuing threat to U.S. national security.117 The administration’s position, however, remains in the minority. Notwithstanding the administration’s continuing fealty to the 2001 statute, as pressures build to address these issues, the “temporal vitality”118 of the AUMF will continue to be challenged. The successful targeting of those responsible for the attacks of September 11, 2001, will ensure that the AUMF’s vitality will not be indefinite. Moreover, even if one rejects as overly optimistic the position that Al Qaeda is currently or will soon be incapable of threatening the United States, the AUMF is already insufficient to reach many terrorist organizations. Assuming a robust Al Qaeda for the indefinite future does not change the disconnected status of certain terrorist groups; as much as it might wish to the contrary, Al Qaeda does not control all Islamist terrorism.119 B. The Consequences of Failing to Reauthorize The AUMF’s inevitable expiration, brought about by the increasingly tenuous link between current U.S. military and covert operations and those who perpetrated the September 11 attacks, leaves few good options for the Obama Administration. Unless Congress soon reauthorizes military force in the struggle against international terrorists, the administration will face difficult policy decisions. Congress, however, shows no signs of recognizing the AUMF’s limited lifespan or a willingness to meaningfully re-write the statute. In light of this reticence, one choice would be for the Obama Administration to acknowledge the AUMF’s limited scope and, on that basis, forego detention operations and targeted killings against non-Al Qaeda-related terrorists. For both strategic and political reasons, this is extremely unlikely, especially with a president in office who has already shown a willingness to defy legal criticism and aggressively target terrorists around the globe.120 120 John B. Bellinger III, Will Drone Strikes Become Obama’s Guantanamo?, WASH. POST, Oct. 2, 2011, http://www.washingtonpost.com/opinions/will-drone-strikes-becomeobamas- guantanamo/2011/09/30/gIQA0ReIGL\_story.html (“[T]he U.S. legal position may not satisfy the rest of the world. No other government has said publicly that it agrees with the U.S. policy or legal rationale for drones.”). Another option would be for the Executive Branch to acknowledge the absence of legal authority, but continue targeted killings nonetheless. For obvious reasons, this option is problematic and unlikely to occur. Therefore, the more likely result is that the Executive Branch, grappling with the absence of explicit legal authority for a critical policy, would need to make increasingly strained legal arguments to support its actions.121 Thus, the Obama Administration will soon be forced to rationalize ongoing operations under existing legal authorities, which, I argue below, will have significant harmful consequences for the United States. Indeed, the administration faces a Catch-22—its efforts to destroy Al Qaeda as a functioning organization will lead directly to the vitiation of the AUMF. The administration is “starting with a result and finding the legal and policy justifications for it,” which often leads to poor policy formulation.122 Potential legal rationales would perforce rest on exceedingly strained legal arguments based on the AUMF itself, the President’s Commander in Chief powers, or the international law of self- defense.123 Besides the inherent damage to U.S. credibility attendant to unconvincing legal rationales, each alternative option would prove legally fragile, destabilizing to the international political order, or both. 1. Effect on Domestic Law and Policy Congress’s failure to reauthorize military force would lead to bad domestic law and even worse national security policy. First, a legal rationale based on the AUMF itself will increasingly be difficult to sustain. Fewer and fewer terrorists will have any plausible connection to the September 11 attacks or Al Qaeda, and arguments for finding those connections are already logically attenuated. The definition of those individuals who may lawfully be targeted and detained could be expanded incrementally from the current definition, defining more and more groups as Al Qaeda’s “co-belligerents” and “associated forces.”124 But this approach, apart from its obvious logical weakness, would likely be rejected by the courts at some point.125 The policy of the United States should not be to continue to rely on the September 18, 2001, AUMF. Second, basing U.S. counterterrorism efforts on the President’s constitutional authority as Commander in Chief is legally unstable, and therefore unsound national security policy, because a combination of legal difficulties and political considerations make it unlikely that such a rationale could be sustained. This type of strategy would likely run afoul of the courts and risk destabilizing judicial intervention,126 because the Supreme Court has shown a willingness to step in and assert a more proactive role to strike down excessive claims of presidential authority.127 Politically, using an overly robust theory of the Commander in Chief’s powers to justify counterterrorism efforts would, ultimately, be difficult to sustain. President Obama, who ran for office in large part on the promise of repudiating the excesses of the Bush Administration, and indeed any president, would likely face political pressure to reject the claims of executive authority made “politically toxic” by the writings of John Yoo.128 Because of the likely judicial resistance and political difficulties, claiming increased executive authority to prosecute the armed conflict against Al Qaeda would prove a specious and ultimately futile legal strategy. Simply put, forcing the Supreme Court to intervene and overrule the Executive’s national security policy is anathema to good public policy. In such a world, U.S. national security policy would lack stability—confounding cooperation with allies and hindering negotiations with adversaries. There are, of course, many situations where the president’s position as Commander in Chief provides entirely uncontroversial authority for military actions against terrorists. In 1998, President Clinton ordered cruise missile strikes against Al Qaeda-related targets in Afghanistan and Sudan in response to the embassy bombings in Kenya and Tanzania. In 1986, President Reagan ordered air strikes against Libyan targets after U.S. intelligence linked the bombing of a Berlin discotheque to Libyan operatives.129 Executive authority to launch these operations without congressional approval was not seriously questioned, and no congressional approval was sought.130 To be sure, many of the targeted killing operations carried out today fall squarely within the precedent of past practice supplied by these and other valid exercises of presidential authority. Notwithstanding disagreement about the scope of Congress’s and the president’s “war powers,” few would disagree with the proposition that the president needs no authorization to act in selfdefense on behalf of the country. However, it is equally clear that not all terrorists pose such a threat to the United States, and thus the Commander in Chief cannot justify all counterterrorism operations as “self-defense.” A third option would be to conduct all counterterrorism operations as covert operations under the aegis of Title 50.131 Although the CIA typically carries out such “Title 50 operations,” the separate roles of the military and intelligence community have become blurred in recent years.132 The president must make a “finding” to authorize such operations,133 which are conducted in secret to provide deniability for the U.S. Government.134 Relying entirely on covert counterterrorism operations, however, would suffer from several critical deficiencies. First, even invoking the cloak of “Title 50,” it is “far from obvious” that covert operations are legal without supporting authority.135 In other words, Title 50 operations, mostly carried out by the CIA, likely also require “sufficient domestic law foundation in terms of either an AUMF or a legitimate claim of inherent constitutional authority for the use of force under Article II.”136 Second, covert operations are by definition kept out of public view, making it difficult to subject them to typical democratic review. In light of “the democratic deficit that already plagues the nation in the legal war on terror,”137 further distancing counterterrorism operations from democratic oversight would exacerbate this problem.138 Indeed, congressional oversight of covert operations—which, presumably, operates with full information—is already considered insufficient by many.139 By operating entirely on a covert basis, “the Executive can initiate more conflict than the public might otherwise [be] willing to support.”140 137 Derek Jinks & Neal Kumar Katyal, Disregarding Foreign Relations Law, 116 YALE L.J. 1230, 1276–77 (2007) (noting that **the “presidential netherworld**” where “the President has been acting **without the explicit support of the legislature**” “**is bad for the reputation of the U**nited **S**tates, as well as for our deliberative democracy”). See also Samuel Issacharoff, Political Safeguards in Democracies at War, 29 OXFORD J. LEGAL. STUD. 189, 198 (2009) (“The ‘war on terror’ therefore presents a particularly worrisome situation: it can be fought clandestinely, it does not require broad-scale troop mobilizations, and it can be financed essentially off the books by deficit spending. These features also enable asymmetric wars to be fought without political accountability and broad-based consent, moving far beyond the enhanced executive power necessary to and expected during the conduct of traditional wars.”). 138 Jon D. Michaels, Beyond Accountability: The Constitutional, Democratic, and Strategic Problems with Privatizing War, 82 WASH. U. L.Q. 1001, 1078 (2004) (“[T]he legitimacy of military policymaking depends not just on broad congressional involvement, but also on democratic input and popular consent.”). 139 See Jennifer D. Kibbe, Conducting Shadow Wars, 5 J. NAT’L SECURITY L. & POL’Y 373, 383 (2012) (emphasizing that “the critical question is whether intelligence, and specifically covert action, issues are receiving appropriate congressional oversight”). 140 Michaels, supra note 138, at 1077. The democratic deficit vis-à-vis covert operations is not a new theory; it has surfaced as a significant problem in U.S. foreign policy, most prominently during the Iran-Contra affair. See HOUSE SELECT COMM. TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN AND SENATE SELECT. COMM. ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION, REPORT OF THE CONGRESSIONAL COMMS. INVESTIGATING THE IRAN-CONTRA AFFAIR, S. REP. NO. 216, H.R. REP. NO. 433, 100th Cong., 1st Sess. 11 (1987), available at http://ia 600301.us.archive.org/19/items/reportofcongress87unit/reportofcongress87unit.pdf (“The Administration’s departure from democratic processes created the conditions for policy failure, and led to contradictions which undermined the credibility of the United States.”). In a world without a valid AUMF, the United States could base its continued worldwide counterterrorism operations on various alternative domestic legal authorities. All of these alternative bases, however, carry with them significant costs—detrimental to U.S. security and democracy. The foreign and national security policy of the United States should rest on “a comprehensive legal regime to support its actions, one that [has] the blessings of Congress and to which a court would defer as the collective judgment of the American political system about a novel set of problems.”141 **Only then can the President’s efforts be sustained and legitimate.**

[Matt note: footnote 120, 137-140 included]

#### Executive trust deficit means only congressional action can create legitimacy

Goldsmith, 13 -- Harvard Law School Henry L. Shattuck professor of law

[Jack, J.D. from Yale Law School, former legal adviser to the General Counsel of the Department of Defense, former United States Assistant Attorney General, leading the Office of Legal Counsel in the Department of Justice, United States Senate Committee on Armed Services Hearing on “Law of Armed Conflict, the Use of Military Force, and the 2001 Authorization for Use of Military Force," 5-16-13, www.lawfareblog.com/wp-content/uploads/2013/05/Goldsmith\_05-16-13.pdf, accessed 9-28-13, mss]

On September 14, 2001, Congress passed the Authorization for the Use of Military Force. The AUMF, as it is called, authorized the President “to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.” The AUMF focused on entities responsible for 9/11. In the Fall of 2001 those entities, including al Qaeda, were located primarily in Afghanistan. In the last dozen years, al Qaeda has undergone what Professor Robert Chesney describes as an “extraordinary process of simultaneous decimation, diffusion, and fragmentation, one upshot of which has been the proliferation of loosely-related regional groups that have varying degrees of connection to the remaining core al Qaeda leadership.”1 The Executive branch expanded the kinetic and intelligence war beyond Afghanistan to other places around the globe against al Qaeda affiliates that were not in existence on 9/11, much less responsible for the 9/11 attacks. Both legal and organizational innovations accompanied and made possible the expansion of the war. On the legal side, the Executive branch interpreted the AUMF to extend to organizations associated or affiliated with al Qaeda, under the theory that they are co-belligerents. It also interpreted the AUMF – which, unlike some prior congressional approvals of military force, lacks geographical limitation – to authorize force in many nations outside Afghanistan where affiliated or associated al Qaeda forces are found. 2 On the organizational side, both the CIA and the Defense Department changed quite a lot. The CIA became committed to targeted killing via unmanned aerial vehicles, or “drones”, and reorganized its intelligence mission to support drone warfare. And the Defense Department’s Joint Special Operations Forces (JSOC) grew rapidly and engaged in an expanded array of stealth operations (including but not limited to drone fire operations) and intelligence missions (including human intelligence missions) needed to support these operations. These innovations have undergirded a mostly officially secret geographical expansion of the “war on terrorism” since the Fall of 2001. This Committee presumably knows the details of this “shadow war,” including its lethal force elements and any rendition, proxy detention, proxy force, and related elements. But U.S. citizens know very few details, at least from official U.S. government channels, because the operations are highly classified and often covert. Presidential Reports under the War Powers Resolutions were designed to ensure that Congress and the American people were aware of presidential expansions of war. But these Reports now regularly contain classified annexes, and they do not purport to cover CIA operations in any event. As a result, the American people know about the shadow war primarily through journalistic accounts. These accounts report that the United States has since 9/11 engaged in military or paramilitary operations in at least a dozen countries, and probably a much higher number.3 President Obama proclaimed in his second inaugural address that a “decade of war is now ending.”4 It does appear that heavy-footprint war against the Taliban in Afghanistan is winding down. Two former senior legal officials in the Obama administration have given speeches that some interpret to indicate that the shadow war outside Afghanistan is also winding down or will end soon. 5 I do not know the intelligence basis for these speeches. I nonetheless do not believe the shadow war will end any time soon. Consider a few recent news reports. The United States has engaged in over a dozen drone strikes this year in Pakistan and Yemen; it is expanding its drone capabilities in North Africa to address the growing Islamist (including al Qaeda affiliate) threats there; JSOC now has boots on the ground in Mali (among many other places); the United States is training Syrian opposition forces; U.S. Special Operations Command is planning to significantly increase its presence in Africa, Asia and Latin America; the Obama administration is debating whether the AUMF extends to Ansar al-Sharia in Libya and the al-Nusra Front in Syria; it is also debating whether the AUMF extends not just to associates of al Qaeda, but also to “associates of associates.”6 These and similar reports suggest that the shadow war against Islamist terrorist threats is morphing but not winding down. I will proceed on this assumption – an assumption I believe is implicit in most of the questions this Committee asked the panelists to address. II. Why Congress Must Engage Congress’s main engagement with the shadow war is the AUMF, which is nearly a dozen years old. It is long past time for Congress as a body to scrutinize the shadow war fought pursuant to the AUMF and to clarify publicly its legal basis and proper oversight mechanisms. The AUMF is out of date in two ways. First, through a series of Executive branch interpretations, each legitimate in itself, the AUMF is now deemed to authorize a war that is quite different from the one Congress contemplated a dozen years ago. As Senator Durbin recently said, “I don’t believe many, if any, of us believed when we voted for [the AUMF] that we were voting for the longest war in the history of the United States and putting a stamp of approval on a war policy against terrorism that, 10 years plus later, we’re still using.”7 To the extent Senator Durbin’s views are widely shared, Congress should determine whether it approves of the shadow war being fought pursuant to the AUMF, including the method by which the AUMF conflict expands. Second, emerging al Qaeda-inspired Islamist terrorist organizations are increasingly difficult to fit within the AUMF. Michael Leiter, the former Director of the National Counterterrorism Center, recently testified: “With the continued evolution of the terror threat and most notably its increasing distance from the 9/11 attacks and core al Qa’ida, I believe it is the time to re‐evaluate the AUMF to better fit today’s threat landscape.” 8 Similarly, an unnamed senior Obama administration official recently told the Washington Post that “[t]he farther we get away from 9/11 and what this legislation was initially focused upon . . . we can see from both a theoretical but also a practical standpoint that groups that have arisen or morphed become more difficult to fit in.” The official added that the waning relevance of the AUMF is “requiring a whole policy and legal look.”9 **That** policy and **legal look should not only take place** in secret **within the Executive** branch. It should also take place in Congress and in public. Another reason why Congress should now engage is that its authorizing and oversight processes are outdated. The CIA component of the shadow war is conducted pursuant to a very thin legal framework for covert action that was not designed to be a central legitimating tool for warfare and that contains open-ended reporting requirements and no identified substantive constraints. Congress should determine whether this framework suffices for modern stealth warfare, and if not, how it should be changed. Congress should similarly consider his Committee’s even-less-specified oversight mechanisms for Defense Department operations. I am told that the members of this Committee are satisfied with these mechanisms. But the mechanisms are mostly grounded in secret custom, not public law, and the American people cannot assess them and thus cannot know whether to have confidence in them. This last consideration points to another reason why Congress should engage: the shadow war is unnecessarily – and, increasingly, **self-defeatingly** – secretive. There are growing indications, and complaints, that our heavy reliance on drones is a strategic failure. This is obviously a vital issue for the nation, but it cannot be debated intelligently in public because our drone operations are classified. More broadly, **excessive Executive branch secrecy is weakening trust in the administration’s conduct** of the shadow war. **A good deal of the misplaced concern about drone s**trikes in the homeland against Americans **has resulted from the administration’s stilted explanations about** the **legal limits** and secret processes for killing U.S. citizen al Qaeda suspects. These stilted explanations, in turn, are driven by the requirements of classified information and covert action. Excessive secrecy also underlies growing mistrust and doubts – at home, and abroad – about the administration’s claims about the rate of civilian casualties, the soundness of its legal analyses, and the quality of its internal deliberations. **Congress** can and **should help the Executive** branch **bring the shadow war out of the shadows**, even if it makes the conduct of the war harder abroad.

#### Drones are most effective at counter-terrorism- disrupt key operations, decapitate leaders, and destroys safe havens, specialists, and training

Byman, 13 -- Georgetown University Security Studies professor

[Daniel, Brookings Institution Saban Center for Middle East Policy Senior Fellow, "Why Drones Work," Foreign Affairs, July/August 2013, http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman, accessed 8-28-13, mss]

Despite President Barack Obama’s recent call to reduce the United States’ reliance on drones, they will likely remain his administration’s weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have devastated al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused. Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage. So drone warfare is here to stay, and it is likely to expand in the years to come as other countries’ capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid. NOBODY DOES IT BETTER The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban -- top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers. Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

#### Foreign intelligence is key to effective drone strategies- that prevents large-scale attacks

Cilluffo, 11 -- George Washington University Homeland Security Policy Institute director [Frank, "After bin Laden the Threat Remains: Drones, CIA and SOF Still the Only Game in Town," 5-2-11, HSPI Commentary 22, www.gwumc.edu/hspi/policy/commentary022\_after\_bin\_laden.cfm, accessed 8-19-13, mss]

In May 2009, just four months into his tenure as the Director of the Central Intelligence Agency, Panetta assessed the situation this way: “Very frankly, [drone strikes are] the **only game in town** in terms of confronting or trying to disrupt the al Qaeda leadership.” That same year, Petraeus highlighted the imperative behind applying “a lot of pressure” while arguing that “for us, a terrorist is a terrorist, whether he operates on this side of the border or that side of the border.” Today, their assessments remain as valid (if not more so) than they were two years ago. American drone strikes, in conjunction with countless clandestine operations carried out by the CIA, US Special Forces teams (and the Pakistani military), have placed unrelenting pressure on al Qaeda, its offshoots, and fellow-travelers. Although admittedly imperfect and perhaps at times heavy-handed, these reconnaissance and strike missions have served our national interests and helped shield us from harm. In effect, these missions have provided suppressive fire against a concert of jihadi terrorists that now includes not only al Qaeda, but the Haqqani network, Lashkar-e-Tayyiba, Tehrik-e Taliban Pakistan, Harkat-ul-Jihad-al-Islami, and the Islamic Movement of Uzbekistan. This suppressive fire has degraded the performance of these jihadists, limiting their wherewithal to organize, plan, and carry out the large-scale mass-casualty attacks for which they yearn. Yet, suppressive fire is only effective for the duration of the fire. **Let up, and the terrorists will quickly regain** their **lost capabilities and recover the** operational **time and space** they need **to go** back **on the offensive**. Now is certainly not the time to let up. Nevertheless, strike missions are not a panacea and should not be taken lightly. For more than twenty years, the US has worked to cultivate relationships with foreign intelligence services, police, and militaries to aid in the fight against global terrorists. Although these efforts have met with limited success, they must continue. The difficult situation we face today would be far worse if we had not undertaken such — and it would quickly deteriorate if we were to walk away now. The dearth of capable, stable, and trustworthy partners in the FATA region means we will be increasingly forced to rely on these and other unconventional tools of statecraft. Islamabad remains unable to exercise the writ of government over much of its territory (or bureaucracy). Under these circumstances, history teaches us that governments also lack the ability to prevent their soil, citizens, and resources from being usurped. Thus the US must maintain its political flexibility and tactical maneuverability. The US must maintain its ability to carry out unconventional reconnaissance and paramilitary missions. This represents a critical, and increasingly important argument — for Pakistan is not an isolated case. In Yemen, in Somalia, in Sudan — and in a growing list of other un- and undergoverned nation-states we are witness to a similar pattern. In the world’s most dangerous places, the US has few partners and fewer options. At the same time, we face a continued threat from those who would do us grave harm. Under these conditions, and with the capability and moral imperative to protect our citizens, the United States must reject demands to curtail the use of drones, CIA, or Special Forces. When it comes to disrupting the activities of jihadi terrorists, these foils remain the only game in town — their value again demonstrated last night. Today, we owe a debt of gratitude to those nameless, faceless individuals who pilot the drones, collect and analyze the intelligence, and when called upon carry out the paramilitary missions. As we move forward, I hope we continue to provide them with the tools, resources, and room to maneuver necessary to do their jobs as well as they have in the last twenty-four hours.

# 2AC

## 2AC T - Auth

#### Counter Interpretation – ONLY ONE WAR POWER AUTHORITY - CHIEF authority to launch war

Bajesky 13 (2013¶ Mississippi College Law Review¶ 32 Miss. C. L. Rev. 9¶ LENGTH: 33871 words ARTICLE: Dubitable Security Threats and Low Intensity Interventions as the Achilles' Heel of War Powers NAME: Robert Bejesky\* BIO: \* M.A. Political Science (Michigan), M.A. Applied Economics (Michigan), LL.M. International Law (Georgetown). The author has taught international law courses for Cooley Law School and the Department of Political Science at the University of Michigan, American Government and Constitutional Law courses for Alma College, and business law courses at Central Michigan University and the University of Miami.)

A numerical comparison indicates that the Framer's intended for Congress to be the dominant branch in war powers. Congressional war powers include the prerogative to "declare war;" "grant Letters of Marque and Reprisal," which were operations that fall short of "war"; "make Rules for Government and Regulation of the land and naval Forces;" "organize, fund, and maintain the nation's armed forces;" "make Rules concerning Captures on Land and Water," "raise and support Armies," and "provide and maintain a Navy." [n25](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n25) In contrast, the President is endowed with one war power, named as the Commander-in-Chief of the Army and Navy. [n26](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n26)¶ The Commander-in-Chief authority is a core preclusive power, predominantly designating that the President is the head of the military chain of command when Congress activates the power. [n27](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n27) Moreover, peripheral Commander-in-Chief powers are bridled by statutory and treaty restrictions [n28](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n28) because the President "must respect any constitutionally legitimate restraints on the use of force that Congress has enacted." [n29](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n29) However, even if Congress has not activated war powers, the President does possess inherent authority to expeditiously and unilaterally react to defend the nation when confronted with imminent peril. [n30](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n30) Explicating the intention behind granting the President this latitude, Alexander Hamilton explained that "it is impossible to foresee or to define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them." [n31](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n31) The Framers drew a precise distinction by specifying that the President was empowered "to repel and not to commence war." [n32](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n32)

## 2AC Restrict/Authority – Circumvention (0:50)

#### 2. Restrictions exist even if the executive overrides them

Mortenson 11 (Assistant Professor, University of Michigan Law School, University of Chicago Law Review, Winter 2011, Retrieved 6/1/2013 from Lexis/Nexis, rwg, Julian Davis)

His second claim, at best, obscures deep ambiguity. It is certainly true that FDR "became more creative" in leveraging explicit exceptions contained in the Neutrality Acts and related statutes as his efforts to help the future Allies intensified (III, p 297). And the applicability of those exceptions has been sharply questioned, a complicated problem that space here does not suffice to address. n72 But as David Barron and Martin Lederman have exhaustively detailed in well-known work that Yoo does not cite, this focused use of explicit statutory exceptions demonstrates a President perforce acknowledging the constraining effect of congressional restrictions--even in purely internal deliberations. n73 Indeed, FDR rejected advice from both the vice president and the secretary of the interior that he simply disregard the statutes (III, p 297). n74 Nor was this cheap talk: FDR's choice to use exceptions rather [\*402] than simply ignore the statute had real costs for his policies. He sent less weaponry, worse equipment, and fewer troops to assist the United Kingdom--and he did so through far more convoluted mechanisms--than would have been the case had he simply ignored the statutory framework. n75 These were serious consequences in a time of global cataclysm, yet Yoo views this entire episode as evidence of a constitutional power to override congressional restrictions.

#### 3. CI – restrictions include transparently narrowing targeting criteria

**Waxman 13** - law professor at Columbia Law School, where he co-chairs the Roger Hertog Program on Law and National Security. He is also Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations and a member of the Hoover Institution Task Force on National Security and Law. He previously served in senior policy positions at the State Department, Defense Department, and National Security Council. After graduating from Yale Law School, he clerked for Judge Joel M. Flaum of the U.S. Court of Appeals and Supreme Court Justice David H. Souter<Matthew. “AUMF Reform: A Response to Brooks and Others” March 15, 2013. <http://www.lawfareblog.com/2013/03/aumf-reform-a-response-to-brooks-and-others/>>

Brooks raises some important concerns, including that new statutory authorities to use force against terrorist threats will contribute to mission creep and a strategically unwise expansion of unilateral military action — that it will substitute poorly for, rather than generate and incorporate, sound strategic thinking about costs and benefits of military action. We share, as Brooks notes, those concerns, and that is in part why we reject proposals that simply expand the 2001 AUMF. Instead, we recommend that any new statutory framework include substantive restrictions (such as narrow targeting criteria, defined more specifically than the current AUMF and executive branch pronouncements, that hew to international self-defense law and the law of armed conflict) and institutional checks (such as mandated transparency, auditing, and periodic assessment requirements). It’s critical that any new legislative authority include such limitations and checks to address some of the past decades’ lessons. Brooks and other readers have reasonably questioned how effectively such restrictions will function, but we think they can serve as important constraints that improve policymaking.

## 2AC CIR

**Obamacare thumped**

Schaper 10/22, Arthur, Canada Free Press, “What Republicans Have Gained Following the Shutdown,” 10/22, http://canadafreepress.com/index.php/article/58738

President Obama has wasted what political capital by holding the line against defunding, then delaying Obamacare’s individual mandate and refusing to repeal the medical device tax, which Republicans and Democrats in Congress oppose. Even Minnesota’s US Senator Al Franken has sponsored a non-binding resolution to repeal the tax. President Obama may have “won” the shutdown fight in the short term, but he has not beaten down the anti-establishment rebellion in the House or the US Senate. President Obama entered his second term with slightly less political capital than George W. Bush in 2004. While Bush won slightly less of the popular vote, he took away more electoral votes than he had won in 2000. Bush stumped to privatize social security, and he failed; yet when he lost both chambers of Congress in 2006, he still managed to instigate a troop surge in 2007. President Obama is saddled with his own legacy, the Affordable Care Act, which even his own leader-colleagues have called “unacceptable” due to its poor rollout. Former Press Secretary John Gibbs also called the Obamacare Medicare exchanges for what they were: disastrous. While the media will portray Obama as the undivided winner, in the long run the Republican Party has asserted new muscle, taking its cues from its radical, grassroots origins. Instead of agreeing to spend $50 billion over budget as opposed to $100 billion, the TEA Party caucus has forced Washington legislators to cut spending.

#### Won’t pass – shutdown killed it

NBC Politics 10/21/13 ("Did Shutdown 'Poison the well' For Immigration Reform")

Prospects for a comprehensive immigration reform bill remain cloudy after a bruising shutdown fight for Republicans that left hard feelings in Washington even as activists continue to push their cause. ¶ “The president’s actions and attitude over the past couple of weeks have certainly poisoned the well and made it harder to work together on any issue,” said a GOP leadership aide asked about the chances of major immigration legislation making it to the White House. ¶ Republican leaders say they remain committed to fixing the nation’s broken immigration system. But, as the dust settles from the shutdown mess, both sides say that the time isn’t exactly optimal for a Kumbaya moment. ¶ “There will definitely have to be a cooling off period,” said Marshall Fitz, the director of immigration policy for the progressive Center for American Progress. Republicans hold "a sense of, ‘Yes, we lost, but we won’t back down,'” he said. "It certainly feels like the fever has not broken.”

**Plan is bipartisan**

**Brooks 13** -law professor at Georgetown University and a Schwartz senior fellow at the New America Foundation. She served as a counselor to the U.S. defense undersecretary for policy from 2009 to 2011 and previously served as a senior advisor at the U.S. State Department. <Rosa. “Mission Creep in the War on Terror” March 14, 2013. <http://www.isidewith.com/article/mission-creep-in-the-war-on-terror>>

That's not surprising: As the targets of U.S. drone strikes have expanded from senior Taliban and al Qaeda operatives to a far broader range of individuals with only the most tenuous links to al Qaeda, the administration's legal arguments for targeted killings have grown ever more tortured and complex. In particular, it's gotten progressively more difficult for officials to avoid blushing while claiming that U.S. drone policy is fully consistent with Congress's 2001 Authorization for Use of Military Force (AUMF), which authorizes force only against those who bear some responsibility for the 9/11 attacks.¶ With Option 3 -- lie, lie, lie -- off the table, and fudging and obfuscation growing harder to comfortably sustain, the thoughts of administration officials turn naturally to Option 2: change the law. Thus, as the Washington Post reported last weekend, some administration officials are apparently considering asking Congress for a new, improved "AUMF 2.0," one that would place U.S. drone policy on firmer legal footing.¶ Just who is behind this notion is unclear, but the idea of a revised AUMF has been gaining considerable bipartisan traction outside the administration. In a recent Hoover Institution publication, for instance, Bobby Chesney, who served in the Obama Justice Department, teams up with Brookings's Ben Wittes and Bush administration veterans Jack Goldsmith and Matt Waxman to argue for a revised AUMF -- one that can provide "a new legal foundation for next-generation terrorist threats."

#### No CIR --- House GOP will block votes to preserve party cohesion.

Bookman October 25th

Jay, Immigration reform dies at the feet of a panicked GOP, Atlanta Journal-Constitution, http://www.ajc.com/weblogs/jay-bookman/2013/oct/25/immigration-reform-dies-feet-panicked-gop/

Ah, yes. Remember those days, way way back in ... what was it, March? In the immediate aftermath of their 2012 defeat, even GOP leaders such as House Speaker John Boehner were saying things like "a comprehensive approach is long overdue, and I’m confident that the president, myself, others, can find the common ground to take care of this issue once and for all.” Now, not so much. Not at all, in fact. It's not as if the polls have changed. If anything, they show that support for a comprehensive solution growing stronger and stronger, and not just within the Hispanic community. According to a CBS poll released this week, 77 percent of Americans -- and 69 percent of Republicans -- say they would support legislation offering "a path to citizenship for illegal immigrants in the U.S. if they met certain requirements including a waiting period, paying fines and back taxes, passing criminal background checks, and learning English." Unfortunately, it's been clear for months now that the Republican House is simply incapable of accepting such legislation. In fact, multiple news outlets are now reporting that no immigration legislation of any kind will be voted on in the House before the end of the year, largely out of fear that allowing such a vote might further divide the already fragmented GOP caucus. We're seeing the same dynamic that produced the government shutdown and debt-ceiling fiasco now playing out on immigration: If allowed an up or down vote, the comprehensive package that has already passed the Senate with Republican support would almost certainly pass in the House as well, and with bipartisan support. GOP leaders also know that would be good for the country and good for their party. Yet Boehner and his allies are so cowed by the more extreme elements of their caucus and base that they have resigned themselves to doing nothing, even if -- as the RNC warned -- the GOP "will continue to shrink to its core constituencies only" as a result.

#### PC fails

Hernandez 10/24/13 (Sandra, Writer for the Los Angeles Times, "Is Obama's Call for Immigration Reform Really Helpful?")

After months of being relegated to the back of the legislative line, [immigration reform](http://www.latimes.com/topic/politics/migration/immigration-reform-legislation-%282013%29-EVGAP00073.topic) is back in the spotlight. On Thursday, President [Obama](http://www.latimes.com/topic/politics/government/barack-obama-PEPLT007408.topic) gave a speech urging the Republican-led House to move quickly to fix the nation’s dysfunctional immigration system.¶ But is Obama’s speech likely to help or hurt such efforts in the House? According to some [GOP](http://www.latimes.com/topic/politics/parties-movements/republican-party-ORGOV0000004.topic) conservatives and [tea party](http://www.latimes.com/topic/politics/tea-party-movement-ORCIG000068.topic) members, the more the president talks about the need to overhaul the immigration system, the dimmer the chances a compromise bill will be passed in the House.¶ Why? The logic goes something like this: Anything that Obama says about immigration reform only deepens partisan divisions in the House. Moreover, his speech was little more than an effort to steal the spotlight from moderate Republicans who are working hard to find a way forward.

#### Griffin nomination thumps

Gruenberg 10/24/13 (Mark, "Senate to Vote Oct. 28 On Griffin for Top NLRB Enforcement Job")

WASHINGTON (PAI) - The Senate is scheduled to vote late on Oct. 28 on President Obama's nomination of former Operating Engineers General Counsel Richard Griffin to be General Counsel of the National Labor Relations Board (NLRB), the agency's chief enforcement officer.¶ Though the Senate Republicans reportedly promised not to filibuster Griffin, right-wing groups, plus the notoriously anti-worker Wall Street Journal editorial page, are trying to gin up opposition to his nod.

#### PC theory is wrong – winners win

Hirsh 13 – National Journal chief correspondent, citing various political scientists

[Michael, former Newsweek senior correspondent, "There’s No Such Thing as Political Capital," National Journal, 2-9-13, www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207, accessed 2-8-13, mss]

The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get itwrong. On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through. Most of **this** talk **will have** no bearing on what actually happens over the next four years. Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen. What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.” As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The **political tectonics** have **shift**ed **dramatically** in very little time. Whole new possibilities exist now that didn’t a few weeks ago. Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very little to do with Obama’s personal influence—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the Hispanic vote in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. Bobby Jindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all. The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.” The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, **political capital** is a concept that **misleads** far more than it enlightens. **It is** **distortionary**. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history. Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger. But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “**Winning wins.”** In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote. Some **political scientists** **who study** the elusive calculus of **how to pass legislation** and run successful presidencies **say** that **political capital is**, at best, **an empty concept**, and that **almost nothing in** the **academic literature** successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. **Winning** on one issue often **changes the** **calculation** for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where **the conventional wisdom is that president is not going to get what he wants**, and [they]he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. **It’s a bandwagon effect**.” ALL THE WAY WITH LBJ Sometimes, a clever practitioner of power can get more done just because [they’re]he’s aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?” Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)

#### Health.gov costs capital – issue has staying power

Pace and Benac 10/26/13 (Julie and Nancy, Huffington Post Politics, "Obama's Health Care Woes May Have Staying Power")

For nearly five years, Republicans have struggled to make a scandal stick to President Barack Obama's White House. One by one, the controversies — with shorthand names such as Solyndra, Benghazi, and Fast and Furious — hit a fever pitch, then faded away.¶ But some Republicans see the disastrous rollout of Obama's health law as a problem with the kind of staying power they have sought.¶ The health care failures are tangible for millions of Americans and can be experienced by anyone with Internet access. The law itself is more closely associated with Obama personally and long has been unpopular with the majority of the American people.¶ The longer the technical problems persist, the more likely they are to affect the delicate balance of enrollees needed in the insurance marketplace in order to keep costs down.

#### Griffin nomination thumps

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WASHINGTON (PAI) - The Senate is scheduled to vote late on Oct. 28 on President Obama's nomination of former Operating Engineers General Counsel Richard Griffin to be General Counsel of the National Labor Relations Board (NLRB), the agency's chief enforcement officer.¶ Though the Senate Republicans reportedly promised not to filibuster Griffin, right-wing groups, plus the notoriously anti-worker Wall Street Journal editorial page, are trying to gin up opposition to his nod.

## 2AC Self-Restraint CP

#### Congress key to prevent shift to *jus ad bellum*- goes nuclear

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 9-19-13, mss]

In a world without a valid AUMF, the United States could base its continued worldwide counterterrorism operations on various alternative domestic legal authorities. All of these alternative bases, however, carry with them significant costs—detrimental to U.S. security and democracy. The foreign and national security policy of the United States should rest on “a comprehensive legal regime to support its actions, one that [has] the blessings of Congress and to which a court would defer as the collective judgment of the American political system about a novel set of problems.”141 Only then can the President’s efforts be sustained and legitimate. 2. Effect on the International Law of Self-Defense A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of selfdefense— the jus ad bellum.142 Finding sufficient legal authority for the United States’s ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress’s role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert “self-defense against a continuing threat” to target and detain terrorists worldwide, it will almost always be able to find such a threat.143 Indeed, the Obama Administration’s broad understanding of the concept of “imminence” illustrates the danger of allowing the executive to rely on a self-defense authorization alone.144 This approach also would inevitably lead to dangerous “slippery slopes.” Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of “imminence,”145 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the Obama Administration has disclaimed this manner of broad authority because the AUMF “does not authorize military force against anyone the Executive labels a ‘terrorist,’”146 relying solely on the international law of self defense would likely lead to precisely such a result. The slippery slope problem, however, is not just limited to the United States’s military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration’s “expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . .”147 Indeed, “[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, **the result would be chaos**.”148

#### Links to politics

Hallowell ’13 [Billy Hallowell, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>, KB]

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

**Soft power DA – CP alienates allies**

Schwarz 7 senior counsel, and Huq, associate counsel at the Brennan Center for Justice at NYU School of Law, (Frederick A.O., Jr., partner at Cravath, Swaine & Moore, chief counsel to the Church Committee, and Aziz Z, former clerk for the U.S. Supreme Court, Unchecked and Unbalanced: Presidential Power in a Time of Terror, p. 201)

The Administration insists that its plunge into torture, its lawless spying, and its lock-up of innocents have made the country safer. Beyond mere posturing, they provide little evidence to back up their claims. Executive unilateralism not only undermines the delicate balance of our Constitution, but also lessens our human liberties and hurts vital counterterrorism campaigns. How? Our reputation has always mattered. In 1607, Massachusetts governor John Winthrop warned his fellow colonists that because they were a "City on a Hill," "the eyes of all people are upon us."4 Thomas Jefferson began the Declaration of Independence by invoking the need for a "decent respect to the opinions of mankind:' In today's battle against stateless terrorists, who are undeterred by law, morality, or the mightiest military power on earth, our reputation matters greatly.¶ Despite its military edge, the United States cannot force needed aid and cooperation from allies. Indeed, our status as lone superpower means that only by persuading other nations and their citizens—that our values and interests align with theirs, and so merit support, can America maintain its influence in the world. Military might, even extended to the globe's corners, is not a sufficient condition for achieving America's safety or its democratic ideals at home. To be "dictatress of the world," warned John Quincy Adams in 1821, America "would be no longer the ruler of her own spirit." A national security policy loosed from the bounds of law, and conducted at the executive's discretion, will unfailingly lapse into hypocrisy and mendacity that alienate our allies and corrode the vitality of the world's oldest democracy.5