# 1nc

**Restrictions are prohibitions on action --- the aff is a reporting requirement**

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

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb. In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment. Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

**Voting issue**

**Limits – allowing oversight affs blows the lid off the topic – it’s a whole topic of its own**

**Ground – they jack links to core DAs like deference and credibility – makes being neg impossible**

# 1nc

#### War powers authority is enumerated in prior statutes---doesn’t include CIC power because it’s not a congressionally authorized source of Presidential power

Curtis Bradley 10, Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School, Curtis, “CLEAR STATEMENT RULES AND EXECUTIVE WAR POWERS” http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty\_scholarship

The scope of the President’s independent war powers is notoriously unclear, and courts are understandably reluctant to issue constitutional rulings that might deprive the federal government as a whole of the flexibility needed to respond to crises. As a result, courts often look for signs that Congress has either supported or opposed the President’s actions and rest their decisions on statutory grounds. This is essentially the approach outlined by Justice Jackson in his concurrence in Youngstown.1 For the most part, the Supreme Court has also followed this approach in deciding executive power issues relating to the war on terror. In Hamdi v. Rumsfeld, for example, Justice O’Connor based her plurality decision, which allowed for military detention of a U.S. citizen captured in Afghanistan, on Congress’s September 18, 2001, Authorization for Use of Military Force (AUMF).2 Similarly, in Hamdan v. Rumsfeld, the Court grounded its disallowance of the Bush Administration’s military commission system on what it found to be congressionally imposed restrictions.3 The Court’s decision in Boumediene v. Bush4 might seem an aberration in this regard, but it is not. Although the Court in Boumediene did rely on the Constitution in holding that the detainees at Guantanamo have a right to seek habeas corpus re‐ view in U.S. courts, it did not impose any specific restrictions on the executive’s detention, treatment, or trial of the detainees.5 In other words, Boumediene was more about preserving a role for the courts than about prohibiting the executive from exercising statutorily conferred authority.

#### Vote negative---

#### Limits---commander-in-chief power blows the lid off the topic to include anything that might be a potential authority---makes adequate research impossible

#### Precision---Congress can only restrict authority which it has granted, which means any other reading of the topic is incoherent

# 1nc

**The president of the United States should publically declare that self-defense and armed conflict legal regimes have no overlap and that self-defense targeted killings will only be performed outside armed conflicts**

**Solves better than the plan**

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

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

# 1nc

#### TPA will pass but will be close- political capital is key

Schneider, 12-17 -- Washington Post international economics correspondent

[Howard, "Obama, to sell trade pacts, will outline the benefits of globalization," St. Louis Post Dispatch, 12-17-13, www.stltoday.com/business/local/obama-to-sell-trade-pacts-will-outline-the-benefits-of/article\_3bebc586-6ed7-50dd-879c-3f331fd54363.html, accessed 1-3-14, mss]

Obama, to sell trade pacts, will outline the benefits of globalization

After months of international negotiations over two new trade treaties, the Obama administration is planning a major push to make the case that the agreements will put Americans to work at a decent wage and not further winnow the country's manufacturing base. European and U.S. negotiators are in Washington this week to continue work on an agreement that would mesh the world's two largest economies more closely together. A second proposed treaty, the 12-nation Trans-Pacific Partnership (TPP), may be finished early next year, creating a trade zone covering 40 percent of world economic output and reaching from Chile to Japan. The legislation needed for both agreements to clear Congress is expected to be introduced early in 2014, and the administration "is beginning to ramp up" for what could be the most extensive debate in more than a decade over the opportunities and risks of globalization, said an official who was not authorized to speak publicly about the administration's strategy. "**We will be mobilizing a whole administration effort to build** public and **congressional support**," the official said. It is likely to be a controversial battle, forcing President Barack Obama to stump for policies that some of his strongest political allies — particularly organized labor and environmental groups — are likely to oppose. It is a debate set against the backdrop of 7 percent unemployment and concern about the loss of U.S. jobs that coincided with the rise of manufacturing power in countries such as China. The measures under consideration would cover the bulk of global economic activity and reshape economic relations around the globe — setting the first rules for new industries that are thriving thanks to the Internet and renegotiating standards for old ones such as shoemaking. Obama has focused much of his recent economic policy on boosting trade and global investment. He will now need to make the case that a broad new set of trade agreements will help U.S. workers and not merely shift jobs overseas or benefit a small clique of global corporations, as many trade skeptics argue has happened before. These agreements "will set the rules of the game … in a way that levels the playing field and allows our workers to compete more effectively. If we don't do that, the rules will be set by others," U.S. Trade Representative Michael Froman said Tuesday. Chinese economic influence in Asia is a particular concern. "At the end of the day, when the deal is done, we will be able to explain to everybody the balances that we struck and we will have support for the substance of it," Froman said. The countries involved range from long-standing U.S. industrial allies such as Germany and Japan to developing nations such as Vietnam and Malaysia, each posing its own challenges in completing the agreements and winning support in the United States. A more open Japanese auto market could be of great benefit to U.S. manufacturers, for example, while the administration envisions Vietnam becoming a geopolitically important model of how a government-planned economy can transition to a system of stronger individual rights and more market-based rules for state-run enterprises. Several major union leaders, as well as some corporate executives and civil society groups, have been skeptical that those benefits will ever be realized and argue that the TPP in particular is being negotiated with such little public disclosure that it is hard to judge the potential effects. On Capitol Hill, there is ill will to overcome from the recent government shutdown and controversy over the rollout of the health-care law. Unemployment is high and a core group of Democrats feels that prior trade agreements — from Clinton-era treaties with Mexico and Canada to the decision to let China join the World Trade Organization — have helped hollow out America's manufacturing middle class. Democrats who favor trade — including important figures such as Rep. Sander Levin, D-Mich., — want tougher guarantees in any upcoming treaty, including enforceable rules to ensure that major trading partners don't unfairly manipulate the value of their currencies to gain advantage. Civil society groups have raised a myriad of complaints, and the usually pro-trade GOP may splinter as members affiliated with the tea party movement argue against providing Obama with the same authority that presidents since Gerald Ford have been given to negotiate trade treaties without fear of congressional amendment. In fact, the first battle will be over not a trade agreement but that "fast-track" authority. Fast-track rules let Congress set negotiating parameters for the administration but requires any subsequent treaty to receive a quick up-or-down vote without amendment — a way to assure negotiating partners that deals will not be returned with a long list of congressional changes to barter over. The Republican and Democratic chairmen of the House Ways and Means Committee and the Senate Finance Committee are working on a trade promotion authority bill expected to be introduced early in 2014. That will be the forum to work out some of the major fears or complaints lawmakers have voiced over the TPP and the Transatlantic Trade and Investment Partnership with Europe. Obama "needs to make clear this is important," said Jake Colvin, a vice president of the National Foreign Trade Council, a business lobby. "**Potentially there is a significant amount of support in the center among Democrats and Republicans to get it over the line."** Free-trade agreements with South Korea, Colombia and Panama have been approved under Obama. But they originally dated to the Bush administration and were covered by fast-track laws that have since expired. The last debate over trade promotion authority, in 2002, showed how narrow and politically fraught the margins can become: The measure was approved 215 to 212 in the House on a largely party-line vote. The politics of trade since then have arguably become more intense. The U.S. sway over the world economic system was rocked by the financial crisis, and China's rapid growth has led U.S. unions, politicians and others to insist that future trade agreements not only open markets but also ensure that U.S. workers are not left at a disadvantage. New "21st century" issues such as the transfer of data across national borders, intellectual property rules for biotechnology, and appropriate regulations for state-owned enterprises are being negotiated for the first time, alongside age-old disputes over agriculture and whether cheese from somewhere other than Roquefort-sur-Soulzon smells just as sweet. When the latest round of Pacific talks ended this month in Singapore, House Ways and Means Committee Chairman Dave Camp, R-Mich, said there had been "**considerable bipartisan and bicameral progress**" on a trade promotion bill. He said he felt legislation could pass "early next year, if we have the administration's active participation."

#### Congressional backlash against presidential military powers drains political capital- empirically proven

Kriner, 10 -- Boston University political science professor [Douglas, Ph.D. in Government from Harvard University, After the Rubicon: Congress, Presidents, and the Politics of Waging War, 67-69, google books, accessed 6-7-13, mss]

¶ Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction-particularly congressional opposition-to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"-Truman's seizure of the steel mills and firing of General Douglas MacArthur-explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand-yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea." While congressional support leaves the president's reserve of political capital intact, **congressional criticism saps energy from other initiatives on the home front** by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection pros- pects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to Presi- dent George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War."" **In addition to boding ill for the president's** perceived **political capital** and reputation, **such** partisan **losses in Congress** only further **imperil his programmatic agenda**, both international and domestic. Scholars have long noted that President Lyndon Johnson`s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq."¶ When making their cost-benefit calculations, presidents surely con- sider these wider political costs of congressional opposition to their military policies. If **congressional opposition in the military arena stands to derail other elements of his agenda**, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### TPA is key to major trade deals

Nawaguna, 12-10 -- Reuters staff

[Elvina, "U.S. Congress could OK trade promotion bill in early 2014, lawmaker says," Reuters, 12-10-13, www.reuters.com/article/2013/12/10/us-usa-trade-idUSBRE9B919020131210, accessed 1-3-14]

The Obama administration has said it needs Congress to approve TPA, which would allow any trade deal to move swiftly through Congress. With TPA, lawmakers cannot amend or filibuster trade deals but can still vote for or against them. The administration needs that fast-track rule to clinch two huge trade deals, the Trans-Pacific Partnership (TPP) with 11 other Pacific Rim countries, and the Transatlantic Trade and Investment Partnership (TTIP) with the European Union. The administration argues that TPA, which expired in 2007, is useful in coaxing countries to put their best deal on the table without fearing that Congress could reopen and amend them.

#### TPP key to solve Asian war

Kahler, 11 – UC San Diego pacific international relations professor

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

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

#### Nuclear war

**Eland 12-10**-13 [Ivan Eland,PhD in Public Policy from George Washington University, Senior Fellow and Director of the Center on Peace & Liberty at The Independent Institute, has been Director of Defense Policy Studies at the Cato Institute, and he spent 15 years working for Congress on national security issues, including Principal Defense Analyst at the Congressional Budget Office, has served as Evaluator-in-Charge for the U.S. General Accounting Office, “Stay Out of Petty Island Disputes in East Asia,” <http://www.huffingtonpost.com/ivan-eland/stay-out-of-petty-island-_b_4414811.html>]

One of the most dangerous international disputes that the United States could get dragged into has little importance to U.S. security -- the disputes nations have over small islands (some really rocks rising out of the sea) in East Asia. Although any war over these islands would rank right up there with the absurd Falkland Islands war of 1982 between Britain and Argentina over remote, windswept sheep pastures near Antarctica, any conflict in East Asia always has the potential to escalate to nuclear war. And unlike the Falklands war, the United States might be right in the atomic crosshairs.¶ Of the two antagonists in the Falklands War, only Britain had nuclear weapons, thus limiting the possibility of nuclear escalation. And although it is true that of the more numerous East Asian contenders, only China has such weapons, the United States has formal alliance commitments to defend three of the countries in competition with China over the islands -- the Philippines, Japan, and South Korea -- and an informal alliance with Taiwan. Unbeknownst to most Americans, those outdated alliances left over from the Cold War implicitly still commit the United States to sacrifice Seattle or Los Angeles to save Manila, Tokyo, Seoul, or Taipei, should one of these countries get into a shooting war with China. Though a questionable tradeoff even during the Cold War, it is even less so today. The "security" for America in this implicit pledge has always rested on avoiding a faraway war in the first place using a tenuous nuclear deterrent against China or any other potentially aggressive power. The deterrent is tenuous, because friends and foes alike might wonder what rational set of U.S. leaders would make this ridiculously bad tradeoff if all else failed. ¶ Of course these East Asian nations are not quarreling because the islands or stone outcroppings are intrinsically valuable, but because primarily they, depending on the particular dispute involved, are in waters that have natural riches -- fisheries or oil or gas resources. ¶ In one dispute, the Senkaku or Diaoyu dispute -- depending on whether the Japanese or Chinese are describing it, respectively -- the United States just interjected itself, in response to the Chinese expansion of its air defense zone over the islands, by flying B-52 bombers through this air space to support its ally Japan. The United States is now taking the nonsensical position that it is neutral in the island kerfuffle, even though it took this bold action and pledged to defend Japan if a war ensues. Predictably and understandably, China believes that the United States has chosen sides in the quarrel.¶ Then to match China, South Korea extended its own air defense zone -- so that it now overlaps that of both China and Japan. But that said, as a legacy of World War II, South Korea seems to get along better with China, its largest trading partner, than it does with Japan. Also, South Korea and Japan have a dispute over the Dokdo or Takeshima Islands, depending on who is describing them, in the Sea of Japan. Because the United States has a formal defense alliance with each of those nations and stations forces in both, which would it support if Japan and South Korea went to war over the dispute? It's anyone's guess.

# 1nc

**The United States federal government should limit the war power authority of the president for self-defense targeted killings to outside an armed conflict unless the jus in bello proportionality test is met.**

**The United States federal government should subject its decision on the jus in bello proportionality test to third party review.**

**The CP competes – it’s less restrictive and both justification to occur outside of an armed conflict when the proportionality test is met.**

**It’s net-beneficial – COMPLETE separation of legal regimes allows non-state actor to exploit the self-defense doctrine – turns the second advantage. Expanding jus in bello to include the proportionality aspect of just ad bellum solves.**

Benvenisti 9 (Eyal, Professor of Law, Tel Aviv University, “Rethinking the Divide Between Jus ad Bellum and Jus in Bello in Warfare Against Nonstate Actors,” Yale Journal of International Law, Vol. 34, <http://law.bepress.com/cgi/viewcontent.cgi?article=1114&context=taulwps>)

Curiously, however, the insulation of in bello legal assessment from ad bellum considerations has resisted this trend almost entirely.6 This dichotomy is still in vogue among most international lawyers and philosophers.7 Michael Walzer famously referred to these two sets of norms as “logically independent,”8 and even those who question the morality of this distinction understand its institutional significance. Yet there appear to be good reasons to question this distinction. In this brief Essay, I undertake to question the logic of the dichotomy by examining the growing influence of ad bellum considerations in assessing compliance with in bello obligations in the context of asymmetric warfare against nonstate actors.

B. The Challenge of Asymmetric Conflicts

This exercise suits a publication that celebrates the jurisprudence of Professor W. Michael Reisman. His close attention to changes in the underlying political, economic, and social factors inspired the recasting of many of these binary dichotomies as continua. Reisman also devoted much attention, as early as the 1980s, to the challenges that asymmetric conflicts pose to the regulation of warfare9 due to the demise of the “dynamic of reciprocity and retaliation”10 when nonstate actors are “neither beneficiaries of nor hostages to the territorial system.”11

Perhaps as a response to the decline of that dyadic dynamic of reciprocity and retaliation, a new, broader dynamic has emerged, one that involves a host of other actors.12 These actors—governments, international organizations, humanitarian nongovernmental organizations, and civil society—have been translating their growing sensitivity to crises and human suffering to the promotion of new types of monitoring and retaliatory mechanisms ranging from divestment to criminal prosecutions of those whom they find to have violated the law.

These various new actors and observers, and the institutions they have developed, address a new type of battlefield that challenges the distinctions upon which the law of war is founded. The tactics of nonstate actors exploit, and hence undermine, two basic assumptions that have sustained the jus in bello since its inception: first, that it is possible to compartmentalize the battlefield and single out with sufficient clarity military from civilian targets and; second, that there are obvious military goals, such as gaining control over territory, that can reliably tell us whether the collateral civilian damage was or was not excessive relative to the effort made to achieve those goals. The combination of these two assumptions gave rise to the possibility that humanitarian conflict, one in which armies would strive to induce each other into submission without recourse to “total war,” was achievable. War was about inducing concessions from the defeated party by degrading its military capabilities and weakening and disabling its fighters, without necessarily killing them.13

Unfortunately, neither assumption typically holds in warfare against nonstate actors. First, there are very few purely military targets. This dramatically limits the ability of a regular army to identify arenas where it can legitimately project its power. In fact, as the 2003 invasion of Iraq showed, the relatively weaker army will try to reduce these arenas by reverting to guerrilla tactics. Moreover, it is no longer clear what can be considered military gain, especially since control over enemy resources and territory often proves to be a liability rather than an asset. Without tangible military goals, commanders are tempted to simply capture or kill as many of their opponents as possible, or to intimidate their opponents’ noncombatant constituency.

Nonstate actors therefore pose a challenge that is fundamental to the vitality and content of the jus in bello. Which military objectives could be considered legitimate in an asymmetric warfare against nonstate actors? How should one gauge the legitimacy of collateral civilian damage? In what follows I suggest that bridging the divide between jus in bello and jus ad bellum, and expanding the jus in bello proportionality test to include aspects of the ad bellum conditions, offers a possible response to these challenges. Jus in bello proportionality analysis can take into account not only the ad bellum question of who is to blame for the commencement of hostilities, but also incorporate the decision of one of the parties to pursue unrelated goals or to prolong the military confrontation instead of negotiating its end, thereby offering a more comprehensive assessment of the legality of the military action. Whereas according to the traditional jus in bello standard each enemy is entitled to pursue its adversary until its total defeat, it increasingly becomes relevant to inquire—at least in political discourse, if not in positive law—to what extent continuing the fight is necessary.14 For example, would it have been legitimate, during the 1991 campaign, for the coalition forces not only to drive the Iraqi forces out of Kuwait, but also to invade Iraq and replace the Iraqi regime? Under this framework, the party who had either no legitimate reason to resort to force, or no good reason to pursue it further, would be more limited in its ability to justify the infliction of harm on noncombatants when pursuing its military objectives. If these propositions become part of the law, they would effect a major change: the traditional in bello proportionality analysis never required the attacker to explain the necessity of attaining the military objective; the necessity of such action was taken for granted.\

#### Allowing third party review of the proportionality test guarantees compliance and effectively constrains the conflation of two legal regimes – turns the second advantage

Benvenisti 9 (Eyal, Professor of Law, Tel Aviv University, “Rethinking the Divide Between Jus ad Bellum and Jus in Bello in Warfare Against Nonstate Actors,” Yale Journal of International Law, Vol. 34, <http://law.bepress.com/cgi/viewcontent.cgi?article=1114&context=taulwps>)

Thus far I have articulated the proposition that ad bellum considerations do matter in in bello proportionality analysis, at least in political parlance. The “incident theory” suggests that further support for the proposition is likely to entrench it as the prevailing law. The task is now to reflect on this trend and to ask to what extent the proposition reflects sound policy considerations. Most contemporary scholars oppose the proposition based on two main arguments. First is the argument from dyadic reciprocity. To ensure compliance with jus in bello, both sides should enjoy its equal protection. The aggressor will have no incentive to comply with the law if the defender is relieved from the law’s constraints. And because each side tends to view itself as just, unless jus in bello is insulated from ad bellum considerations, the two camps will immediately descend to ruthless brutality.21 The argument from reciprocity is convincing, and is even morally compelling,22 when conditions for reciprocity obtain. But warfare between a regular army and nonstate actors is not subject to the dyadic reciprocity rationale. The asymmetric relationship in fact incentivizes both sides to eschew reciprocal considerations: the nonstate actor resorts to terrorism, whereas the stronger regular army is tempted to inflict excessive harm upon noncombatants, to conflate military objectives with killing combatants, and to treat captured combatants as outlaws.

However, as mentioned above, the growing involvement in such conflicts of third parties, with their diverse modalities for reviewing the belligerents’ actions, shifts the incentive structure from the traditional dyadic dynamic of reciprocity between the parties to a much broader dynamic.23 The dueling parties must take the attitude of those third parties into account as the combat is played out not only bilaterally but also concurrently in the global arena. Toleration or condemnation by key international actors, including public and private actors and observers, as well as by foreign and international courts, often proves to be an effective constraint at least on the state party to the conflict. The state party will not descend into barbarism regardless of what the enemy does if it has an incentive to maintain its good reputation globally or to avoid criminal sanctions. Since third-party observers assess both ad bellum and in bello considerations, the percolation of ad bellum considerations into the jus in bello proportionality analysis can prove a rather sophisticated and effective constraint on the stronger regular army. The introduction of ad bellum considerations into the analysis of jus in bello’s vaguer concepts—which often call for balancing of competing considerations, such as the determination of excessive harm to civilians or the targeting of individuals “for such time as they take a direct part in hostilities”24—would not provide either side with more freedom of action or impose greater risks to noncombatants. Quite to the contrary, a state party must convince the international community that its military operations are aimed at just causes to be able to justify the military goals it pursues. This fuller account of the jus in bello proportionality analysis examines not only the necessity of the collateral harm to noncombatants but also the legitimacy of the pursuit of the military goals. What the traditional law takes for granted—that in bello all military goals are equally and always legitimate—can now be questioned by the emerging new assessors and indirect enforcers of the law.

# 1nc

**The affirmative re-inscribes the primacy of liberal legalism as a method of restraint—that paradoxically collapses resistance to Executive excesses.**

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In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

**That causes endless warfare**

Bacevich, 5 -- Boston University international relations professor [A. J., retired career officer in the United States Army, former director of Boston University's Center for International Relations (from 1998 to 2005), *The New American Militarism: How Americans Are Seduced by Wa*r, 2005 accessed 9-4-13, mss]

Today as never before in their history Americans are enthralled with military power. The global military supremacy that the United States presently enjoys--and is bent on perpetuating-has become central to our national identity. More than America's matchless material abundance or even the effusions of its pop culture, the nation's arsenal of high-tech weaponry and the soldiers who employ that arsenal have come to signify who we are and what we stand for. When it comes to war, Americans have persuaded themselves that the United States possesses a peculiar genius. Writing in the spring of 2003, the journalist Gregg Easterbrook observed that "the extent of American military superiority has become almost impossible to overstate." During Operation Iraqi Freedom, U.S. forces had shown beyond the shadow of a doubt that they were "the strongest the world has ever known, . . . stronger than the Wehrmacht in r94o, stronger than the legions at the height of Roman power." Other nations trailed "so far behind they have no chance of catching up. ""˜ The commentator Max Boot scoffed at comparisons with the German army of World War II, hitherto "the gold standard of operational excellence." In Iraq, American military performance had been such as to make "fabled generals such as Erwin Rommel and Heinz Guderian seem positively incompetent by comparison." Easterbrook and Booz concurred on the central point: on the modern battlefield Americans had located an arena of human endeavor in which their flair for organizing and deploying technology offered an apparently decisive edge. As a consequence, the United States had (as many Americans have come to believe) become masters of all things military. Further, American political leaders have demonstrated their intention of tapping that mastery to reshape the world in accordance with American interests and American values. That the two are so closely intertwined as to be indistinguishable is, of course, a proposition to which the vast majority of Americans subscribe. Uniquely among the great powers in all of world history, ours (we insist) is an inherently values-based approach to policy. Furthermore, we have it on good authority that the ideals we espouse represent universal truths, valid for all times. American statesmen past and present have regularly affirmed that judgment. In doing so, they validate it and render it all but impervious to doubt. Whatever momentary setbacks the United States might encounter, whether a generation ago in Vietnam or more recently in Iraq, this certainty that American values are destined to prevail imbues U.S. policy with a distinctive grandeur. The preferred language of American statecraft is bold, ambitious, and confident. Reflecting such convictions, policymakers in Washington nurse (and the majority of citizens tacitly endorse) ever more grandiose expectations for how armed might can facilitate the inevitable triumph of those values. In that regard, George W. Bush's vow that the United States will "rid the world of evil" both echoes and amplifies the large claims of his predecessors going at least as far back as Woodrow Wilson. Coming from Bush the war- rior-president, the promise to make an end to evil is a promise to destroy, to demolish, and to obliterate it. One result of this belief that the fulfillment of America's historic mission begins with America's destruction of the old order has been to revive a phenomenon that C. Wright Mills in the early days of the Cold War described as a "military metaphysics**"-a tendency to see international problems as military problems and to** discountthe likelihood of findinga solution except through military means.To state the matter bluntly, Americans in our own time have fallen prey to militarism, manifesting itself in a romanticized view of soldiers, a tendency to see military power as the truest measure of national greatness, and outsized expectations regarding the efficacy of force. To a degree without precedent in U.S. history, Americans have come to define the nation's strength and well-being in terms of military preparedness, military action, and the fostering of (or nostalgia for) military ideals? Already in the 19905 America's marriage of a militaristic cast of mind with utopian ends had established itself as the distinguishing element of contemporary U.S. policy. The Bush administrations response to the hor- rors of 9/11 served to reaffirm that marriage, as it committed the United States to waging an open-ended war on a global scale. Events since, notably the alarms, excursions, and full-fledged campaigns comprising the Global War on Terror, have fortified and perhaps even sanctified this marriage. Regrettably, those events, in particular the successive invasions of Afghanistan and Iraq, advertised as important milestones along the road to ultimate victory have further dulled the average Americans ability to grasp the significance of this union, which does not serve our interests and may yet prove our undoing. The New American Militarism examines the origins and implications of this union and proposes its annulment. Although by no means the first book to undertake such an examination, The New American Militarism does so from a distinctive perspective. The bellicose character of U.S. policy after 9/11, culminating with the American-led invasion of Iraq in March 2003, has, in fact, evoked charges of militarism from across the political spectrum. Prominent among the accounts advancing that charge are books such as The Sorrows of Empire: Militarism, Secrecy, and the End of the Republic, by Chalmers Johnson; Hegemony or Survival: Americas Quest for Global Dominance, by Noam Chomsky; Masters of War; Militarism and Blowback in the Era of American Empire, edited by Carl Boggs; Rogue Nation: American Unilateralism and the Failure of Good Intentions, by Clyde Prestowitz; and Incoherent Empire, by Michael Mann, with its concluding chapter called "The New Militarism." Each of these books appeared in 2003 or 2004. Each was not only writ- ten in the aftermath of 9/11 but responded specifically to the policies of the Bush administration, above all to its determined efforts to promote and justify a war to overthrow Saddam Hussein. As the titles alone suggest and the contents amply demonstrate, they are for the most part angry books. They indict more than explain, and what- ever explanations they offer tend to be ad hominem. The authors of these books unite in heaping abuse on the head of George W Bush, said to combine in a single individual intractable provincialism, religious zealotry, and the reckless temperament of a gunslinger. Or if not Bush himself, they fin- ger his lieutenants, the cabal of warmongers, led by Vice President Dick Cheney and senior Defense Department officials, who whispered persua- sively in the president's ear and used him to do their bidding. Thus, accord- ing to Chalmers Johnson, ever since the Persian Gulf War of 1990-1991, Cheney and other key figures from that war had "Wanted to go back and finish what they started." Having lobbied unsuccessfully throughout the Clinton era "for aggression against Iraq and the remaking of the Middle East," they had returned to power on Bush's coattails. After they had "bided their time for nine months," they had seized upon the crisis of 9/1 1 "to put their theories and plans into action," pressing Bush to make Saddam Hussein number one on his hit list." By implication, militarism becomes something of a conspiracy foisted on a malleable president and an unsuspecting people by a handful of wild-eyed ideologues. By further implication, the remedy for American militarism is self-evi- dent: "Throw the new militarists out of office," as Michael Mann urges, and a more balanced attitude toward military power will presumably reassert itself? As a contribution to the ongoing debate about U.S. policy, The New American Militarism rejects such notions as simplistic. It refuses to lay the responsibility for American militarism at the feet of a particular president or a particular set of advisers and argues that no particular presidential election holds the promise of radically changing it. Charging George W. Bush with responsibility for the militaristic tendencies of present-day U.S. for- eign policy makes as much sense as holding Herbert Hoover culpable for the Great Depression: Whatever its psychic satisfactions, it is an exercise in scapegoating that lets too many others off the hook and allows society at large to abdicate responsibility for what has come to pass. The point is not to deprive George W. Bush or his advisers of whatever credit or blame they may deserve for conjuring up the several large-scale campaigns and myriad lesser military actions comprising their war on ter- ror. They have certainly taken up the mantle of this militarism with a verve not seen in years. Rather it is to suggest that well before September 11, 2001 , and before the younger Bush's ascent to the presidency a militaristic predisposition was already in place both in official circles and among Americans more generally. In this regard, 9/11 deserves to be seen as an event that gave added impetus to already existing tendencies rather than as a turning point. For his part, President Bush himself ought to be seen as a player reciting his lines rather than as a playwright drafting an entirely new script. In short, the argument offered here asserts that present-day **American militarism** has deep roots in the American past. It **represents a bipartisan project.** As a result, it is unlikely to disappear anytime soon, a point obscured by the myopia and personal animus tainting most accounts of how we have arrived at this point. The New American Militarism was conceived not only as a corrective to what has become the conventional critique of U.S. policies since 9/11 but as a challenge to the orthodox historical context employed to justify those policies. In this regard, although by no means comparable in scope and in richness of detail, it continues the story begun in Michael Sherry's masterful 1995 hook, In the Shadow of War an interpretive history of the United States in our times. In a narrative that begins with the Great Depression and spans six decades, Sherry reveals a pervasive American sense of anxiety and vulnerability. In an age during which War, actual as well as metaphorical, was a constant, either as ongoing reality or frightening prospect, national security became the axis around which the American enterprise turned. As a consequence, a relentless process of militarization "reshaped every realm of American life-politics and foreign policy, economics and technology, culture and social relations-making America a profoundly different nation." Yet Sherry concludes his account on a hopeful note. Surveying conditions midway through the post-Cold War era's first decade, he suggests in a chapter entitled "A Farewell to Militarization?" that America's preoccupation with War and military matters might at long last be waning. In the mid- 1995, a return to something resembling pre-1930s military normalcy, involving at least a partial liquidation of the national security state, appeared to be at hand. Events since In the Shadow of War appear to have swept away these expectations. The New American Militarism tries to explain why and by extension offers a different interpretation of America's immediate past. The upshot of that interpretation is that far from bidding farewell to militariza- tion, the United States has nestled more deeply into its embrace. f ~ Briefly told, the story that follows goes like this. The new American militarism made its appearance in reaction to the I96os and especially to Vietnam. It evolved over a period of decades, rather than being sponta- neously induced by a particular event such as the terrorist attack of Septem- ber 11, 2001. Nor, as mentioned above, is present-day American militarism the product of a conspiracy hatched by a small group of fanatics when the American people were distracted or otherwise engaged. Rather, it devel- oped in full view and with considerable popular approval. The new American militarism is the handiwork of several disparate groups that shared little in common apart from being intent on undoing the purportedly nefarious effects of the I96OS. Military officers intent on reha- bilitating their profession; intellectuals fearing that the loss of confidence at home was paving the way for the triumph of totalitarianism abroad; reli- gious leaders dismayed by the collapse of traditional moral standards; strategists wrestling with the implications of a humiliating defeat that had undermined their credibility; politicians on the make; purveyors of pop cul- turc looking to make a buck: as early as 1980, each saw military power as the apparent answer to any number of problems. The process giving rise to the new American militarism was not a neat one. Where collaboration made sense, the forces of reaction found the means to cooperate. But on many occasions-for example, on questions relating to women or to grand strategy-nominally "pro-military" groups worked at cross purposes. Confronting the thicket of unexpected developments that marked the decades after Vietnam, each tended to chart its own course. In many respects, the forces of reaction failed to achieve the specific objectives that first roused them to act. To the extent that the 19603 upended long-standing conventions relating to race, gender, and sexuality, efforts to mount a cultural counterrevolution failed miserably. Where the forces of reaction did achieve a modicum of success, moreover, their achievements often proved empty or gave rise to unintended and unwelcome conse- quences. Thus, as we shall see, military professionals did regain something approximating the standing that they had enjoyed in American society prior to Vietnam. But their efforts to reassert the autonomy of that profession backfired and left the military in the present century bereft of meaningful influence on basic questions relating to the uses of U.S. military power. Yet the reaction against the 1960s did give rise to one important by-prod: uct, namely, the militaristic tendencies that have of late come into full flower. In short, the story that follows consists of several narrative threads. No single thread can account for our current outsized ambitions and infatua- tion with military power. Together, however, they created conditions per- mitting a peculiarly American variant of militarism to emerge. As an antidote, the story concludes by offering specific remedies aimed at restor- ing a sense of realism and a sense of proportion to U.S. policy. It proposes thereby to bring American purposes and American methods-especially with regard to the role of military power-into closer harmony with the nation's founding ideals. The marriage of military metaphysics with eschatological ambition is a misbegotten one, contrary to the long-term interests of either the American people or the world beyond our borders. It invites endless war and the ever-deepening militarization of U.S. policy. As it subordinates concern for the common good to the paramount value of military effectiveness, it promises not to perfect but to distort American ideals. As it concentrates ever more authority in the hands of a few more concerned with order abroad rather than with justice at home, it will accelerate the hollowing out of American democracy. As it alienates peoples and nations around the world, it will leave the United States increasingly isolated. If history is any guide, it will end in bankruptcy, moral as well as economic, and in abject failure. "Of all the enemies of public liberty," wrote James Madison in 1795, "war is perhaps the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies. From these proceed debts and taxes. And armies, debts and taxes are the known instruments for bringing the many under the domination of the few .... No nation could preserve its freedom in the midst of continual Warfare." The purpose of this book is to invite Americans to consider the continued relevance of Madison's warning to our own time and circumstances.

Our alternative is to vote neg to reject the epistemological failures of the 1ac and embrace an epistemology of human security

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While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad. The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question. As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves. There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them. Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation. Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

# Solvency

**Obama will circumvent the plan**

**Lohmann 13** [Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” 1/28, <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>]

The U.S. military—in particular, the Special Operations Command (SOCOM), and its subsidiary entity, the Joint Special Operations Command (JSOC)—is responsible for carrying out military-led targeted killings.¶ Military-led targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led targeted killings may fall into one of the CAS exceptions—for instance, that for traditional military activities—so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from the CAS’s presidential finding and authorization requirements, as well as its congressional reporting rules.¶ Because such unacknowledged military operations are, in many respects, indistinguishable from traditional covert actions conducted by the CIA, this exception may provide a “loophole” allowing the President to circumvent existing oversight mechanisms without substantively changing his operational decisions. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.¶ Chesney asserts, however, that despite the gaps in the CAS’s applicability to military-led targeted killings, those targetings are nevertheless subject to a web of oversight created by executive orders that, taken together, largely mirrors the presidential authorization requirements of the CAS. But, this process is not enshrined in statute or regulation and arguably could be changed or revoked by the President at any time. Moreover, this internal Executive Branch process does not involve Congress or the Judiciary in either ex ante or ex post oversight of military-led targeted killings, and thus, Philip Alston asserts, it may be insufficient to provide a meaningful check against arbitrary and overzealous Executive actions.

**No impact to robotics**

McGinnis, senior professor – Northwestern Law, ‘10

(John O., 104 Nw. U. L. Rev. Colloquy 366)

It is not as if in the absence of AI wars or weapons will cease to exist. The way to think about the effects of AI on war is to think of the consequences of substituting technologically advanced robots for humans on the battlefield. In at least three ways, that substitution is likely to be beneficial to humans. First, robots make conventional forces more effective and less vulnerable to certain weapons of mass destruction, like chemical and biological weapons. Rebalancing the world to make such weapons less effective, even if marginally so, must be counted as a benefit. Second, one of the reasons that conventional armies deploy lethal force is to protect the human soldiers against death or serious injury. If only robots are at stake in a battle, a nation is more likely to use non-lethal force, such as stun guns and the like. The United States is in fact considering outfitting some of its robotic forces with non-lethal weapon-ry. Third, AI-driven weaponry gives an advantage to the developed world and particularly to the United States, be-cause of its advanced capability in technological innovation. Robotic weapons have been among the most successful in the fight against Al-Qaeda and other groups waging asymmetrical warfare against the United States. The Predator, a robotic airplane, has been successfully targeting terrorists throughout Afghanistan and Pakistan, and more technologi-cally advanced versions are being rapidly developed. Moreover, it does so in a targeted manner without the need to launch large-scale wars to hold territory--a process that would almost certainly result in more collateral damage. n61 If one believes that the United States is on the whole the best enforcer of rules of conduct that make for a peaceful and prosperous world, this development must also be counted as a benefit.

**These scenarios are insanely long timeframe—make them read evidence on timeframe and feasibility of the tech itself—we shouldn’t need impact d cards to science fiction**

# Drones

**No risk of nuclear terrorism---too many obstacles**

John J. Mearsheimer 14, R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, “America Unhinged”, January 2, nationalinterest.org/article/america-unhinged-9639?page=show

Am I overlooking the obvious threat that strikes fear into the hearts of so many Americans, which is terrorism? Not at all. Sure, the United States has a terrorism problem. But it is a minor threat. There is no question we fell victim to a spectacular attack on September 11, but it did not cripple the United States in any meaningful way and another attack of that magnitude is highly unlikely in the foreseeable future. Indeed, there has not been a single instance over the past twelve years of a terrorist organization exploding a primitive bomb on American soil, much less striking a major blow. Terrorism—most of it arising from domestic groups—was a much bigger problem in the United States during the 1970s than it has been since the Twin Towers were toppled.¶ What about the possibility that a terrorist group might obtain a nuclear weapon? Such an occurrence would be a game changer, but the chances of that happening are virtually nil. No nuclear-armed state is going to supply terrorists with a nuclear weapon because it would have no control over how the recipients might use that weapon. Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.¶ Terrorists might also try to acquire fissile material and build their own bomb. But that scenario is extremely unlikely as well: there are significant obstacles to getting enough material and even bigger obstacles to building a bomb and then delivering it. More generally, virtually every country has a profound interest in making sure no terrorist group acquires a nuclear weapon, because they cannot be sure they will not be the target of a nuclear attack, either by the terrorists or another country the terrorists strike. Nuclear terrorism, in short, is not a serious threat. And to the extent that we should worry about it, the main remedy is to encourage and help other states to place nuclear materials in highly secure custody.

**No retaliation—definitely no escalation**

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

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

**Drones fail**

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, <http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89_1/89_1Boyle.pdf>

Yet the evidence that drones inhibit the operational latitude of terrorist groups and push them towards collapse is more ambiguous than these accounts suggest. 57 In Pakistan, the ranks of Al-Qaeda have been weakened significantly by drone strikes, but its members have hardly given up the fight. Hundreds of Al-Qaeda members have fled to battlefields in Yemen, Somalia, Iraq, Syria and elsewhere. 58 These operatives bring with them the skills, experience and weapons needed to turn these wars into fiercer, and perhaps longer-lasting, conflicts. 59 In other words, pressure from drone strikes may have scattered Al-Qaeda militants, but it does not neutralize them. Many Al-Qaeda members have joined forces with local insur - gent groups in Syria, Mali and elsewhere, thus deepening the conflicts in these states. 60 In other cases, drones have fuelled militant movements and reordered the alliances and positions of local combatants. Following the escalation of drone strikes in Yemen, the desire for revenge drove hundreds, if not thousands, of Yemeni tribesmen to join Al-Qaeda in the Arabian Peninsula (AQAP), as well as smaller, indigenous militant networks. 61 Even in Pakistan, where the drone strikes have weakened Al-Qaeda and some of its affiliated movements, they have not cleared the battlefield. In Pakistan, other Islamist groups have moved into the vacuum left by the absence of Al-Qaeda, and some of these groups, particularly the cluster of groups arrayed under the name Tehrik-i-Taliban Pakistan (TTP), now pose a greater threat to the Pakistani government than Al-Qaeda ever did. 62 Drone strikes have distinct political effects on the ecology of militant networks in these countries, leaving some armed groups in a better position while crippling others. It is this dynamic that has accounted for the US decision gradually to expand the list of groups targeted by drone strikes, often at the behest of Pakistan. Far from concentrating exclusively on Al-Qaeda, the US has begun to use drone strikes against Pakistan’s enemies, including the TTP, the Mullah Nazir group, the Haqqani network and other smaller Islamist groups. 63 The result is that the US has weakened its principal enemy, Al-Qaeda, but only at the cost of earning a new set of enemies, some of whom may find a way to strike back. 64 The cost of this expansion of targets came into view when the TTP inspired and trained Faisal Shahzad to launch his attack on Times Square. 65 Similarly, the TTP claimed to be involved, possibly with Al-Qaeda, in attacking a CIA outpost at Camp Chapman in the Khost region of Afghanistan on 30 December 2009.66

**Drone strikes outside of armed conflict aren’t valid under self-defense – they’re preventative strikes. The aff’s recognition of self-defense targeted killing authority turns the entire affirmative**

**Martin, 11 -** Associate Professor of Law at Washburn University School of Law (Craig, “GOING MEDIEVAL: TARGETED KILLING, SELFDEFENSE AND THE JUS AD BELLUM REGIME” SSRN) NSA = Non State Actors

We turn next to the second question identified at the outset of this section, namely: in response to which armed attacks are the targeted killings being conducted? First, one has to establish whether the self-defense claimed is in respect of each individual strike, for the policy of strikes as a whole, or separately for the collective strikes against each of the various states. The proposition that each launch of hellfire missiles to implement a kill constitutes a separate act of self-defense is untenable.78 Notwithstanding the lack of evidence from the U.S. government, there is little basis for believing that each act of terrorism that was being contemplated by all the persons so far targeted would by themselves have risen to the level of constituting an armed attack against the United States, had they been launched.79 While the 9/11 attacks clearly reached the level of “armed attack,” most of the other publicly disclosed plots that have been uncovered subsequently would not. Moreover, the killings have apparently taken place before the planned attacks had reached anything close to being imminent. Each use of force would thus have to be characterized as a preventative strike in response to a speculative future threat.

This brings us back to an aspect of self-defense doctrine that, as mentioned earlier, has become controversial in the post 9/11 era, namely the anticipatory and preventative use of force. It has been argued that the killings can be justified on the basis of a “preemptive” or “preventative” conception of self-defense,80 a principle formalized in the so-called “Bush Doctrine.”81 This argument is used both in the context of the theory that each strike constitutes a separate act of self-defense, and arguments that all the targeted killings are part of a response to terrorist attacks generally, so it bears analysis. The claims to a right of “preventative” self-defense are, like the arguments that self-defense is not limited to the use of force against states, grounded in arguments that there are broader customary international law principles that co-exist with Article 51 of the U.N. Charter. These underlying arguments were addressed above.82 In addition, however, these assertions as they relate to preventative use of force are also not consistent with state practice.83 Preventative self-defense as a concept was roundly rejected by the international community when it was floated as a justification for the invasion of Iraq in 2003, and it is not part of established customary international law.84 The claims are inconsistent with the judgments of the ICJ.85 The principle of preventative self-defense goes well beyond an anticipatory use of force against an imminent armed attack, and cannot satisfy the principle of necessity that is one of the foundations of the doctrine of self-defense.86 And while these arguments in support of a preventive use of force have increased in the post 9/11 era, they do not represent the mainstream of scholarly opinion.87 This might lead some to argue that the jus ad bellum regime is an anachronism that must adapt to the new realities of transnational terrorism if it is not to become irrelevant. But as will be argued below, that would be to increase the risk of war simply to address the threat of terrorism.

# Legal regimes

**Conflation is a norm and is inevitable – multiple alt causes disprove the impact**

Benvenisti 9 (Eyal, Professor of Law, Tel Aviv University, “Rethinking the Divide Between Jus ad Bellum and Jus in Bello in Warfare Against Nonstate Actors,” Yale Journal of International Law, Vol. 34, <http://law.bepress.com/cgi/viewcontent.cgi?article=1114&context=taulwps>)

A. Observing State Practice

The reasons for maintaining the “total separation” between jus ad bellum and jus in bello, which are generally valid, are both moral and pragmatic. Yet they become strained in the context of warfare against nonstate actors. As a result, it is possible to observe a shift in the attitude of different actors, who inject ad bellum considerations into their assessment of the legality of certain military measures. In this Part, I first articulate the observation concerning the changing practice and then discuss its normative basis.

Even the adherents of the separation between ad bellum and in bello admit that “conflicts continue to be viewed in terms of ‘good’ and ‘evil’ . . . [and that] the reality is that such differences, real or perceived, matter.”15 For example, during the Gulf War of 1991 both the coalition forces and the international community took into consideration the illegality of the Iraqi invasion of Kuwait when assessing the proportionality of the military tactics adopted by the coalition forces. As Gardam noted, “[i]n the assessment of proportionality, civilians, and to a lesser extent combatants, of the aggressor state were accorded less weight in the balancing process than combatants of the ‘just side.’”16 Reactions during the military conflict in Lebanon in the summer of 2006 conflated ad bellum with in bello obligations.17 Similarly, in reaction to the Israeli attack in the Gaza Strip in December 2008 and January 2009, key observers linked ad bellum and in bello considerations. When asked whether Israel’s attacks were disproportionate, the U.S. ambassador to the United Nations responded: “Israel has the right to defend itself against these rocket attacks and we understand also that Israel needs to do all that it can to make sure that the impact of its exercise of right of self defense against rockets is as minimal and no affect [sic] on the civilian population.”18

**No enforcement mechanism**

**Blank, 12 -** Director, International Humanitarian Law Clinic, Emory Law School (Laurie, “TARGETED STRIKES: THE CONSEQUENCES OF BLURRING THE ARMED CONFLICT AND SELF-DEFENSE JUSTIFICATIONS,” 1656 WILLIAM MITCHELL LAW REVIEW [Vol.38:5, <http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf>)

Finally, effective implementation of and compliance with the law, whether the LOAC, the law of self-defense, or human rights law, depends on regular and respected mechanisms for enforcement. In the arena of international law, both formal (courts and tribunals) and informal (public opinion, response from other states) enforcement have value and effect. Any judicial body determining the lawfulness of state action or the criminal responsibility of individuals must first determine the applicable law in order to reach an appropriate result. n141 When the legal regimes become blurred through repeated conflation, application of the law and thus enforcement will be hampered. The resulting consequence, of course, is that a lack of effective enforcement then undermines effective implementation of the law and protection of persons in the future. These problems often are highlighted in the more informal enforcement arena of media reporting, public opinion, advocacy reports, and other responses, where disputes over applicable law and appropriate analyses abound. When international or nongovernmental organization reports produce primarily disputes over which law is applied - rather than how the law is applied to the facts on the ground - the debate becomes centered on the law and legal disputes rather than on the victims, the perpetrators, and how to prevent legal violations in the future. The blurring of lines between armed conflict and self-defense takes these challenges to another level as well, however, creating a situation in which independent analysts may have difficulty identifying the key pieces of information necessary to an effective examination of the legality of the state's policies and actions.

**Inevitable – zones definition is conflated**

**Blank, 12 -** Director, International Humanitarian Law Clinic, Emory Law School (Laurie, “TARGETED STRIKES: THE CONSEQUENCES OF BLURRING THE ARMED CONFLICT AND SELF-DEFENSE JUSTIFICATIONS,” 1656 WILLIAM MITCHELL LAW REVIEW [Vol.38:5, <http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf>)

One core purpose of the LOAC is the protection of innocent civilians by minimizing harm to civilians and civilian objects during wartime. Another is to enable effective military operations within the boundaries of the law. A central purpose of human rights law is the protection of individuals from violation of their rights and overreaching, even - and especially - during times of national emergency. Blurring the lines between armed conflict and self-defense and the targeting authority relevant to each legal regime directly affects all three of these critical goals. First, the hard-to-define parameters of an ongoing armed conflict with terrorist groups raise serious concerns about too many areas being subsumed within an area of armed conflict and the use of lethal force as a first resort. As more and more areas are viewed as part of the "zone of combat," more innocent civilians will face the consequences of hostilities, whether unintended death, injury, or property damage. This result runs counter to both the LOAC and human rights law. The potential spillover between status-based [\*1698] targeting and direct participation in the armed conflict framework and imminence and necessity (but without belligerent nexus) in the self-defense framework provoke similar consternation with regard to the protective and discriminating purposes of both bodies of law.

**Plan does nothing – it ends the use of self-defense justifications in armed conflict. The greatest risk is the opposite – the use of jus in bello justifications in self-defense targeting.**

**Blank, 12 -** Director, International Humanitarian Law Clinic, Emory Law School (Laurie, “TARGETED STRIKES: THE CONSEQUENCES OF BLURRING THE ARMED CONFLICT AND SELF-DEFENSE JUSTIFICATIONS,” 1656 WILLIAM MITCHELL LAW REVIEW [Vol.38:5, <http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf>)

When no differentiation is made between the armed conflict and self-defense justifications and the two paradigms are potentially conflated, serious concerns regarding the legal parameters for targeting may arise. The greatest risk is that the status-based targeting regime relevant to armed conflict could bleed over into self-defense targeting. Suddenly, imminence and individualized [\*1695] threat determinations begin to give way to more amorphous and seemingly simplistic designations of membership and affiliation or association. In fact, even beyond that danger, one might argue that it is easier to group more groups or individuals within the category of "enemy" because of the greater ease in reaching them with the superior capability and decreased riskiness of drones. n129 The use of so-called "signature strikes" n130 outside of Afghanistan and Pakistan - the "hot battlefields" - surely raises the prospect of status-based targeting in areas where the existence of an armed conflict is uncertain. The category of persons who can be targeted outside of armed conflict thus becomes significantly broader than that contemplated by international law and that normally demonstrated through state practice in situations in which self-defense is not conflated with armed conflict.

**PMC’s jack the LOAC**

Daniel P. Ridlon, A.F. Captain, JD Harvard, 2008, “CONTRACTORS OR ILLEGAL COMBATANTS? THE STATUS OF ARMED CONTRACTORS IN IRAQ,” 62 A.F. L. Rev. 199, ln

In addition to legal liability, the United States' employment of PMF personnel in future conflicts has potential negative policy ramifications. Employing PMF personnel who are potentially viewed as illegal combatants may undermine the public image that the United States conducts its military operations in accordance with the laws of war. This would not only serve as a public relations problem for the United States, but it could also be used as justification for other nations or non-state actors to violate the laws of war, especially if those states or groups are engaged in a conflict against the United States. In the end, the employment of illegal combatants could reduce prisoner of war [\*253] protections afforded to United States military personnel if they are captured.

**No causal link between U.S. drone doctrine and other’ countries choices---means can’t set a precedent**

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way: ¶ Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat. ¶ “Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.” ¶ By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?) ¶ It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be. ¶ Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so. ¶ But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.¶ Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

# a/t: pdb

**Obama will attach a signing statement to the aff**

**Kimbrell 12**, Thomas Matthew, B.A., California State University, Bakersfield, A Thesis Submitted to the Graduate Faculty of The University of Georgia in partial fulfillment of the requirements for a Master of Arts, “Pursuing the Presidents Program: Presidential Program Size and Unilateral Action,” May 1st, https://getd.libs.uga.edu/pdfs/kimbrell\_thomas\_m\_201205\_ma.pdf

First, the legislative bargaining and unilateral action strategies are not completely independent of each other either. For example, Kelley and Marshall (2009) show that presidents strategically use vetoes, veto threats, and signing statements in concert. Bills that were vetoed or received veto threats are much more likely to have a presidential signing statement attached to them. Essentially, presidents use vetoes and veto threats to gain policy concessions from Congress during the legislative bargaining process. At the end of this process, when Congress has passed a bill, presidents sometimes attach signing statements to influence policy implementation where they feel congressional policy concessions are not satisfactory or to preserve executive authority where they feel it has been encroached.

**Signing statements makes the aff meaningless—destroys the aff’s clarity and signal—AND causes a huge fight**

Jeffrey Crouch 13, assistant professor of American politics at American University, Mark J. Rozell, acting dean and a professor of public policy at George Mason University, and Mitchel A. Sollenberger, associate professor of political science at the University of Michigan-Dearborn, December 2013, The Law: President Obama's Signing Statements and the Expansion of Executive Power, Presidential Studies Quarterly 43.4

Signing statements become objectionable when a president attempts to transform statutory authority and circumvent the rule of law. To be sure, a president may find that certain provisions of legislative enactments violate executive authority or principles of separation of powers. Such weighty issues are appropriate for resolution through a process of deliberation and accommodation between the political branches or, if not settled in that fashion, through the courts. However, signing statements do not, as some suggest, start a productive dialogue (Ostrander and Sievert 2013b, 60). Instead, they **invite interbranch conflict** and encourage additional acts of presidential unilateralism. From Andrew Jackson through Obama's 2009 objection to various provisions of the Supplemental Appropriations Act, signing statements have resulted in unnecessary battles between the branches. Members of Congress often object to signing statements because the presence of one sometimes means that the administration is attempting to settle a policy debate without legislative input. The proper time to exchange views is during the legislative process, which takes place before a bill is submitted to the president to sign. Presidents often make deals with members of Congress on legislation in order to secure its passage. In 2009, President Obama did just that. In the process of convincing Congress to pass a funding measure for the International Monetary Fund and the World Bank “Obama agreed to allow the Congress to set conditions on how the money would be spent” and to attach a reporting requirement provision. However, the president turned around and issued a signing statement arguing that those restrictions would “interfere with my constitutional authority to conduct foreign relations.” Congress was not happy. Representative Barney Frank (D-MA) wrote to the president and accused him of breaking his word. The House even passed a bill that barred funding of the president's challenges (Kelley 2012, 11-12). Instead of encouraging dialogue and political accommodations, such actions by presidents actually short circuit the free exchange of ideas and poison relations with Congress, including lawmakers of the president's own party. If a proposed statute so clearly violates what the president views as vital constitutional principles, then he has an obligation to veto it. He should not agree to the provisions during the legislative process and then turn around and effectively challenge them. Not only does this approach increase distrust and promote greater polarization on Capitol Hill, but it also goes against the text of the Constitution. Nowhere in Article I or Article II does the Constitution provide line-item veto authority to the chief executive. As George Washington explained, “From the nature of the constitution I must approve all the parts of a bill, or reject it in toto” (Washington 1889-93, XII, 327). Even if a president makes constitutional objections during the lawmaking process, such protests do not make credible his actions of signing a bill and later challenging certain provisions through a signing statement. As Representative Frank remarked, presidents “have a legitimate right to tell us their constitutional concerns—that's different from having a signing statement.” However, he explained that “Anyone who makes the argument that ‘once we have told you we have constitutional concerns and then you pass it anyway, that justifies us in ignoring it'—that is a constitutional violation. Those play very different roles and you can't bootstrap one into the other” (Savage 2010). Louis Fisher cuts to the core of the problem with constitutional signing statements that purport to nullify statutory provisions. He argues that such statements “encourage the belief that the law is not what Congress puts in public law but what the administration decides to do later on.” Continuing, Fisher notes that “if the volume of signing statements gradually replaces Congress-made law with executive-made law and treats a statute as a mere starting point on what executive officials want to do, the threat to the rule of law is grave” (Fisher 2007, 210). We agree. It is unilateral presidential decision making itself that in this context strikes a serious blow against the core principles of separation of powers. Another problem with constitutional signing statements is that they generally lack clarity and precision, which greatly hinders the idea that they could be used to help facilitate a dialogue between a president and Congress in the first place (Fisher 2007, 210). As noted earlier, signing statements are often crafted in a world of doublespeak where words are distorted to create confusion, and ambiguity is preferred in order to muddle the president's true intent. President Bush received frequent criticism for his vague statements. Likewise, as Christopher Kelley explained, “there are numerous instances where Obama's signing statements resort to the vagaries seen in the Bush signing statements, where it becomes difficult to discern precisely what is being challenged or why” (2012, 10). The benefits of the obfuscating language are clear. Even when a president intends to ignore a statutory provision, there will be sufficient confusion among reporters, scholars, members of Congress, and certainly the public to prevent any kind of universal response. Consider, for example, President Obama's April 15, 2011, signing statement dealing with the provision to cut off funding for certain czar positions within the White House. In his analysis of that statement, presidential scholar Robert J. Spitzer argued that it merely “expresses displeasure, not disobedience to the law” (2012, 11). Two of us took the opposite view and declared that the president's statement “effectively nullified” the anti-czars provision (Sollenberger and Rozell 2011, 819). If scholars can disagree about the intended meaning of presidential signing statements, it is doubtful that a layperson can clearly discern the president's intentions.

# Cp solves

Legal norms -

**US opinio juris key**

**Watts 10/10**, Sean, Professor of Law at Creighton University Law School where he teaches Constitutional Law, Federal Courts, Federal Habeas Corpus, Law of Armed Conflict, International Criminal Law, and Military Law, “Guest Post: Reviving Opinio Juris and Law of Armed Conflict Pluralism,” 10/10, http://justsecurity.org/2013/10/10/reviving-opinio-juris-law-armed-conflict-pluralism-2/

Admittedly, government representatives’ presentations and public writings still offer highly relevant and informed perspectives on LOAC. Yet the absence of official government opinions unequivocally stated inevitably robs the conversation of a degree of magnitude, significance, and clarity. Is it any wonder that lawyers exhaustively deconstruct the comments of a State Department Legal Advisor when he is willing to speak disclaimer-free? Conditioned to a wet blanket of disclaimers, the LOAC community craves official views. **The stifling effect** of official disclaimers is not limited to academic panels and conferences. State disclaimers, legal equivocation, and worse, silence extend to the general dialogue of LOAC. The result is an **increasingly unbalanced LOAC colloquy**, deprived of the pluralistic balance of State and non-State, military and humanitarian, European and American perspectives that would enrich and balance the development and direction of LOAC. It has not always been so. Recent LOAC history reveals episodes of rough proportionality between State opinio juris and non-State expressions of law. In the immediate aftermath of the Second World War, non-State actors produced important and influential interpretations of LOAC such as Jean Pictet’s 1949 Geneva Convention Commentaries. Scholars, non-governmental groups, and international organizations produced persuasive, even fairly authoritative constructions of LOAC and treaty proposals. Jurists also made important contributions to LOAC through reasoned judgments and briefs in war crimes trials. The United States kept pace for a time. U.S.-convened and supported criminal prosecutions of war crimes were instrumental to the development and efficacy of LOAC. The U.S. also produced comprehensive LOAC analyses and guidance for its armed forces such as the influential 1956 U.S. Army Field Manual on the Law of Land Warfare. In 1996, despite enjoying relative peace, U.S. attention to and concern for the development of LOAC even extended to submitting an amicus curiae brief in the seminal Tadić case at the International Criminal Tribunal for Former Yugoslavia. The result of these efforts was a more pluralistic, balanced, and active LOAC dialogue – a rough proportionality between State and non-State input on this critical and central facet of international law. Today’s international LOAC dialogue appears in stark contrast to the vibrant and pluralistic exchanges of the past. To be sure, non-State LOAC commentary continues to thrive. Legal journals routinely feature challenging LOAC articles, library shelves groan under ever-expanding collections of impressive LOAC doctoral dissertations, and war crimes tribunal judgments run to 1300 pages or more. All the while, humanitarian organizations publish extraordinary and imposing multi-volume LOAC studies, with more in development. And “groups of experts” publish private manuals on a growing number of LOAC topics, available here, here, and here. Meanwhile, the U.S. guns of LOAC opinio juris have fallen nearly silent. The 1956 Army Field Manual remains in service, still the only comprehensive and inter-service law-of-war manual. Interagency bickering and turf battles stymie decades-long efforts to publish crucial legal and operational guidance. Long-promised updates appear to be in the works, as they have been for decades. However, the fact remains that despite the addition of nearly a dozen major LOAC treaties since publication and despite well over fifty years of regularly occurring armed conflict, U.S. military lawyers deploy with the law-of-war manual of their grandfathers. U.S. inactivity and silence is not limited to national military legal doctrine. International criminal convictions grounded in interpretations directly at odds with U.S. understandings of targeting rules provoke virtual silence, leaving only former officers to respond in their private capacities. The ICRC’s now authoritative, 3000-page customary IHL study inspires not a competing product, but rather a 29-page “cross-section[al]” review, focused primarily on general international law methodology. Drastic reinterpretations of fundamental legal guidance for detainee status determinations and armed conflict classification by the Department of Justice and White House are not published as open contributions to LOAC doctrine and dialogue. They are buried in classified legal opinions, unavailable until leaked, even to military lawyers responsible for developing and teaching U.S. LOAC doctrine. Emerging forms of warfare and a broadening operational spectrum provoke “law by analogy” or merely policy statements rather than definitive legal analysis. And meanwhile the ongoing proliferation of private LOAC manuals inspires no substantial, official response. It is no wonder the U.S. Supreme Court mistakes Pictet’s Commentary as “the official commentary to the [Geneva] Conventions” (see n.48), despite the authors’ disclaimer to the contrary. It is no wonder international war crimes tribunals cite humanitarian organizations’ reports and studies rather than States’ opinio juris. The U.S. government and many other specifically-affected States offer them little choice. It is necessary to remember that States and their agents enjoy unique relevance in the formation and interpretation of international law and LOAC. As the primary authors and subjects of LOAC, States should actively shape its content and direction, through both direct means, such as treaty formation and state practice, and indirect means, such as positions proffered in litigation, legal publications, public statements, and diplomatic communications. Even as scholars challenge sovereign-centric understandings of international law, near universal respect endures for the special role of sovereigns in the formation of international law. To coopt and modify a common observation with respect to Originalism in constitutional interpretation, “Everyone is a Sovereigntist sometimes.” That is, what distinguishes dyed-in-the-wool international law Sovereigntists from non-Sovereigntists is probably not acceptance of the legitimacy of State input but rather attitudes toward non-State actors’ international legal contributions. Few international lawyers contest that resort to State expressions of opinio juris constitutes a principled method of interpretation. Disagreements seem instead to concern the effect that absence of State opinio juris has on an international norm. And while there is surely value in the balanced pluralism that results from having both State and non-State contributions to LOAC, State input has always been singularly significant. State opinio juris remains the critical bellwether for the degree of consensus, acceptance, and therefore effectiveness and legitimacy of any international legal rule. In addition to formal authority, States possess unique competency, facility with, and access to the inputs of LOAC. While many grasp the harsh consequences of armed conflict, few outside the ambit of States’ defense agencies and armed forces fully appreciate armed conflict’s operational challenges, demands, and limitations, so essential to striking the delicate LOAC balance between military necessity and humanity. Not unlike the government speaker’s conference disclaimer, the effect of States’ retreat from LOAC dialogue is an impoverishment of dialogue. LOAC discussions, debates, and deliberations, both descriptive and normative, founder in the absence of authoritative State opinio juris. Whatever one’s opinion of the substantive quality or correctness of State opinio juris, State legal opinions provide indispensable control samples for meaningful analyses and critiques. The efforts of legal practitioners and scholars, commanders and humanitarian workers, advocates and judges all suffer when States do not make clear and frequently update their views on the content, interpretation, and future direction of LOAC. Parity of input, especially in quantitative terms, is surely too much to demand and surely not necessary given the special status of State opinio juris. However, States’ legal agencies and agents should be equipped, organized, and empowered to participate actively in the interpretation and development of LOAC. States, and specially-affected States in particular, should make active responses to emerging LOAC scholarship, investigations and jurisprudence a regular facet of their opinio juris. Reinvigorating opinio juris would do far more than satisfy international law sovereigntists. It would go a long way toward reestablishing the pluralistic LOAC dialogue that formerly tested, updated, and enriched the balance between military necessity and humanity. This post surely leaves a number of associated issues unaddressed and assumptions unexplained. For instance, the causes of and motives behind U.S. LOAC opinio juris atrophy are undoubtedly complex and not fully understood. Is desire to maintain operational and diplomatic flexibility to blame? Does retreat from opinio juris reflect a deliberate and considered evaluation of the costs and benefits of silence? Are institutional competence, bureaucratic friction, or organizational culture to blame? Or is ascendancy of a general international law skepticism the cause? Whatever the true causes or motives of the U.S. retreat to the sidelines of LOAC, more active U.S. participation would be a meaningful step toward restoring a truly pluralistic LOAC.

**Solves their “policy key” arguments**

**Singer and Wright 13**, Peter W. Singer is the director of the Center for 21st Century Security and Intelligence and a senior fellow in the Foreign Policy program at Brookings, Thomas Wright is a fellow at the Brookings Institution in the Managing Global Order, “Obama, Own Your Secret Wars,” http://www.nydailynews.com/opinion/obama-secret-wars-article-1.1265620#ixzz2bym1qMox

These efforts have been good starts, but they have been disjointed and partial. Most important, they are missing the much-needed stamp of the President’s voice and authority, which is essential to turn tentative first steps into established policy. Much remains to be done — and said — out in the open. This is why it’s time for Obama’s voice to ring loud and clear. Much as Presidents Harry Truman and Dwight Eisenhower were able keep secret aspects of the development of nuclear weapons, even as they articulated how and when we would use them, Obama should publicly lay out criteria by which the United States will develop, deploy and use these new weapons. The President has a strong case to make — if only he would finally make it. After all, the new weapons have worked. They have offered new options for military action that are more accurate and proportionate and less risky than previously available methods. But they have also posed many new complications. Explaining our position is about embracing both the good and the bad. It is about acknowledging the harms that come with war regardless of what technology is being used and making clear what structures of accountability are in place to respond. It’s also about finally defining where America truly stands on some of the most controversial questions. These include the tactics of “signature” strikes, where the identity is not firmly identified, and “double tap” strikes, where rescuers aiding victims of a first attack are also brought under fire. These have been reported as occurring and yet seem to run counter to the principles under which the programs have been defended so far. The role of the President is not to conduct some kind of retrospective of what we have done and why, but to lay out a course of the future. What are the key strategic goals and ethical guidelines that should drive the development and use of these new technologies? Is current U.S. and international law sufficient to cover them? There are also crucial executive management questions, like where to draw the dividing line between military and civilian intelligence agency use of such technologies, and how to keep a growing range of covert actions from morphing into undeclared and undebated wars. And, finally, the President must help resolve growing tensions between the executive branch and an increasingly restive Congress, including how to handle situations where we create the effect of war but no U.S. personnel are ever sent in harm’s way. Given the sprawling complexity of these matters, only the President can deliver an official statement on where we stand. If only we somehow had a commander in chief who was simultaneously a law professor and Nobel Peace Prize winner! The President’s voice on these issues won’t be a cure-all. But it will lay down a powerful marker, shaping not just the next four years but the actions of future administrations.

**CP ensures Obama gets held acctble**

Gillian Metzger 9, prof, Columbia Law, THE INTERDEPENDENT RELATIONSHIP BETWEEN INTERNAL AND EXTERNAL SEPARATION OF POWERS 59 Emory L.J. 423

I therefore see benefits from paying greater attention to internal administrative design and in particular to analyzing what types of administrative structures are likely to prove effective and appropriate in different contexts.9 But I believe that attending to internal constraints alone is too narrow a focus because it excludes the crucial relationship between internal and external checks on the Executive Branch. Internal checks can be, and often are, reinforced by a variety of external forces—including not just Congress and the courts, but also state and foreign governments, international bodies, the media, and civil society organizations. Moreover, the reinforcement can also work in reverse, with internal constraints serving to enhance the ability of external forces, in particular Congress and the courts, to exert meaningful checks on the Executive Branch. Greater acknowledgment of this reciprocal relationship holds import both for fully understanding the separation of powers role played by internal constraints and for identifying effective reform strategies.

**That means the CP leads to the aff**

**Brecher 12** Aaron, JD Candidate, University of Michigan Law, "Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations," October, <http://www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf>

The executive might also issue the proposed order, even though it would limit her freedom in some ways, because of the possible benefits of constraining future administrations or preempting legislative intervention.149 For example, in this context, an administration may choose to follow the finding and reporting requirements in order to convince Congress that legislative intervention is unnecessary for proper oversight. This is acceptable if the covert action regime is in fact adequate on its own. Moreover, if greater statutory control over cyberattacks is needed, the information shared with Congress may give Congress the tools and knowledge of the issue necessary to craft related legislation.150 Additionally, while executive orders are hardly binding, the inertia following adoption of an order may help constrain future administrations, which may be more or less trustworthy than the current one. Creating a presumption through an executive order also establishes a stable legal framework for cyberattacks that allows law to follow policy in this new field, and permits decisionmakers to learn more about the nature of cyberoperations before passing detailed statutes that may result in unintended consequences.

# a/t: links to politics

**And, XO’s don’t cause backlash**

Sovacool 9

Dr. Benjamin K. Sovacool 2009 is a Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization., Kelly E. Sovacool is a Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of SingaporeArticle: Preventing National Electricity-Water Crisis Areas in the United States, Columbia Journal of Environmental Law 2009 34 Colum. J. Envtl. L. 333,

¶ Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save ¶ ¶ presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails.¶ ¶ 292¶ ¶ Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September ¶ ¶ 11, 2001 attacks on the Pentagon and World Trade Center, for ¶ ¶ instance, the Bush Administration almost immediately passed ¶ ¶ Executive Orders forcing airlines to reinforce cockpit doors and ¶ ¶ freezing the U.S. based assets of individuals and organizations ¶ ¶ involved with terrorist groups.¶ ¶ 293¶ ¶ These actions took Congress ¶ ¶ nearly four months to debate and subsequently endorse with ¶ ¶ legislation. Executive Orders therefore enable presidents to ¶ ¶ rapidly change law without having to wait for congressional action ¶ ¶ or agency regulatory rulemaking.

**And, err neg – there’s link differential between the plan and CP – the CP links less than the aff**

**Warshaw 6** (Shirley Anne Warshaw, MAD QUALZ! An authority on the American presidency, presidential elections, the president's Cabinet, and organizational decision structures for presidential policy making, Warshaw is a frequent speaker and commentator on network radio, television, and print media on presidential leadership and related topics, including CNN, BBC, CBS, NPR, The NewsHour with Jim Lehrer, Washington Post, New York Times, Reuters, Associated Press, Christian Science Monitor, USA Today, Wall Street Journal, and others. Warshaw has written several books on presidential decision-making, Gettysburg College, The Administrative Strategies of President George W. Bush, http://www.ou.edu/special/albertctr/extensions/spring2006/Warshaw.pdf

As presidents segue from the campaign into governance, they develop various strategies for moving their policy agenda forward. The most common strategy for presidents to secure their policy goals has been to submit their legislative proposals to Congress, building on the tools of public persuasion and party supremacy. When presidents capture public support, as President George W. Bush did with his tax cut proposal, Congress follows with legislative approval. However, in recent administrations, particularly since the Reagan administration, presidents have often bypassed Congress using administrative actions. They have opted for a strategy through administrative actions that is less time-consuming and clearly **less demanding of their political capital**. Using an array of both formal and informal executive powers, presidents have effectively directed the executive departments to implement policy without any requisite congressional authorization. In effect, presidents have been able to govern without Congress. The arsenal of administrative actions available to presidents includes the power of appointment, perhaps **the most important of the arsenal, executive orders**, executive agreements, proclamations, signing statements, and a host of national security directives. 1 More than any past president, George W. Bush has utilized administrative actions as his primary tool for governance.

# a/t: object fiat

**Topic education – the CP tests whether war powers should be limited or just not exercised – this is the core of the topic**

**Vladeck 13**, Steve, professor of law and the associate dean for scholarship at American University Washington College of Law, “What’s Really Wrong With the Targeted Killing White Paper,” February 5th, http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/

Indeed, whether because the Department of Justice has been tone-deaf to these criticisms or because it is too constrained by other considerations that are lost upon me, the fact that this is the white paper they’ve chosen to release suggests that they’ve totally missed the point of these demands for public justification: It’s the process that we’re all interested in–how, exactly, the government decides that the various criteria it articulates for these strikes are met, who is in the room when such decisions are made, and whether anyone tries to argue the opposite side. Accepting, as I do, that there are necessarily some number of cases in which the government may lawfully use lethal force even against its own citizens, the issue reduces to how the government decides that such a case is presented–and what checks there are to minimize false positives… Nothing in the white paper provides any further elaboration on this point–and because of that, it’s that much more mind-boggling that it took this long (and even then, only through a leak) for even this discussion to be publicly disclosed. After all, it’s not like anything in this white paper is classified… II. My Idiosyncratic View That the Substantive Discussion is Beside the Point The above helps to explain why I think my friend Kevin Heller is picking the wrong fight over at Opinio Juris when he takes issue with the substantive international law discussion in the white paper. First, I suspect the discussion of imminence in the white paper has little to do with international law (at least in situations in which we’re in a non-international armed conflict with the group of which the target is a senior operational leader), and is more about the domestic constitutional analysis (more on that in a minute). Second, and in any event, as I mentioned above, I imagine that almost all of us would agree that there are some circumstances in which the government is allowed to use lethal force even against its own citizens. I also suspect we could reach a fair amount of consensus on the relevant criteria that should apply to justify such uses of force. This is why, per the above, I’ve always thought this debate was principally about the process questions, not the substantive ones. And, as noted above, the white paper is useless, if not counterproductive, on that point.

**Process Education – key to policy making**

**Schuck 99 –** Professor, Yale Law School, and Visiting Professor, New York Law School (Peter H., Spring (“Delegation and Democracy” – Cardozo Law Review) <http://www.constitution.org/ad_state/schuck.htm>)

God and the devil are in the details of policymaking, as they are in most other important things—and the details are to be found at the agency level. This would remain true, moreover, even if the nondelegation doctrine were revived and statutes were written with somewhat greater specificity, for many of the most significant impacts on members of the public would still be indeterminate until the agency grappled with and defined them. Finally, the agency is often the site in which public participation is most effective. This is not only because the details of the regulatory impacts are hammered out there. It is also because the agency is where the public can best educate the government about the true nature of the problem that Congress has tried to address. Only the interested parties, reacting to specific agency proposals for rules or other actions, possess (or have the incentives to ac-quire) the information necessary to identify, explicate, quantify, and evaluate the real-world consequences of these and alternative proposals. Even when Congress can identify the first-order effects of the laws that it enacts, these direct impacts seldom exhaust the laws’ policy consequences. Indeed, first-order effects of policies usually are less significant than the aggregate of more remote effects that ripple through a complex, interrelated, opaque society. When policies fail, it is usually not because the congressional purpose was misunderstood. More commonly, they fail because Congress did not fully appreciate how the details of policy implementation would confound its purpose. Often, however, this knowledge can only be gained through active public participation in the policymaking process at the agency level where these implementation issues are most clearly focused and the stakes in their correct resolution are highest.

# Drones fail

**Ideological recruits more important**

Minkoff ’13 (Michael, writes for political outcast, “On Drones, Part 3: The “Drone Blowback Fallacy,” April 30th, <http://politicaloutcast.com/2013/04/on-drones-part-3-the-drone-blowback-fallacy/>, April 30, 2013)

In the end, though he contradicts the most basic idea concerning “drone blowback,” his conclusion is remarkably similar to the practical advice given by non-interventionists. His article indicates that Al Qaeda’s quantitative growth is now largely dependent on its ability to pay people. And apparently, Al Qaeda’s fund revenues are getting extremely low. This means they will have to rely more and more on illegal trafficking to raise funds (which is not working as well for them as it is for the Taliban), and as their funds decrease, they will depend more and more on ideologically driven recruits. This means that every civilian death by a drone strike will become ever more necessary for Al Qaeda’s survival. As Swift concedes, drone strike mistakes do contribute locally to the development of Al Qaeda. And these kind of recruits will keep fighting even when the money runs out. These are really the most dangerous members of Al Qaeda—the true believers in the cause. The biggest problem with Swift’s analysis is that he focuses on the quantity of recruits rather than the quality. Hessian foot soldiers, the ones who do it only for the money, are traditionally very fickle to their adopted cause. These aren’t the suicide-bombing fanatics that really pose a threat to our domestic security. So drone strikes may not be driving the quantitative growth on the Al Qaeda payroll, but they are certainly producing the more dangerous jihadist radicals

#### They fail- hydra effect replaces leaders

Blum and Heymann ‘10 (Gabriella Blum\* and Philip Heymann\*\*, \*Assistant Professor of Law, Harvard Law School, \*\* James Barr Ames Professor of Law, Harvard Law School, “ Law and Policy of Targeted killing” ebsco, 2010)

An immediate consequence of eliminating leaders of terrorist organizations will sometimes be what may be called the Hydra effect, the rise of more—and more resolute—leaders to replace them. The decapitating of the organization may also invite retaliation by the other members and followers of the organization. Thus, when Israel assassinated Abbas Mussawi, Hezbollah‘s leader in Lebanon, in 1992, a more charismatic and successful leader, Hassan Nassrallah, succeeded Mussawi. The armed group then avenged the assassination of its former leader in two separate attacks, blowing up Israeli and Jewish targets in Buenos Aires, killing over a hundred people and injuring hundreds more.

#### Pilot shortage thumps

RT ’13 (RT Network, “US drone pilot demand outstrips supply”, <http://rt.com/usa/us-running-out-drone-pilots-765/>, August 21, 2013)

The US Air Force is now facing a shortage in the number of pilots able to operate the military’s quickly expanding drone fleet, according to a new report published by a top Washington, DC, think tank. According to Air Force Colonel Bradley Hoagland, who contributed to a recent report on the Air Force’s drone program prepared by the Brookings Institution, it is quickly hitting a wall in the number of operators for its 159 Predators, 96 Reapers and 23 Global Hawks. Although the US military aimed to train 1,120 ‘traditional’ pilots along with 150 specialized drone pilots in 2012, it proved unable to meet the latter, owing to a lack of RPA (or remotely piloted aircraft) volunteers. A recent report by AFP placed the Air Force’s current drone pilot wing at 1,300, about 8.5 percent of the air corps’ pilots. Still, an increasing number of uses for America’s drone fleet, including recently-revealed plans by the Defense Advanced Research Projects Agency (DARPA) for drones able to operate from naval vessels, have quickly exceeded the Air Force’s ability to train personnel to train and pilot unmanned aerial vehicles (UAVs).

# no terrorism

**Their evidence is alarmism --- overstates strength of terrorists**

**Mueller and Stewart 12** (John, Senior Research Scientist at the Mershon Center for International Security Studies, Adjunct Professor in the Department of Political Science, Ohio State University, Senior Fellow at Cato Institute, and Mark G., Australian Research Council Professorial Fellow, Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle, “The Terrorism Delusion,” International Security, Volume 37, Issue 1, Summer 2012, pg. 81-110, Project Muse)

People such as Giuliani and a whole raft of “**security experts**” have **massively exaggerate**d the capacities and the **dangers presented by** what they have often called “**the universal adversary**” both in its domestic and in its international form. The Domestic Adversary To assess the danger presented by terrorists seeking to attack the United States, we examined the fifty cases of Islamist extremist terrorism that have come to light since the September 11 attacks, whether based in the United States or abroad, in which the United States was, or apparently was, targeted. These cases make up (or generate) the chief terrorism fear for Americans. Table 1 presents a capsule summary of each case, and the case numbers given throughout this article refer to this table and to the free web book from which it derives.7 In 2009, the U.S. Department of Homeland Security (DHS) issued a lengthy report on protecting the homeland. Key to achieving such an objective should be a careful assessment of the character, capacities, and desires of potential terrorists targeting that homeland. Although the report contains a section dealing with what its authors call “the nature of the terrorist adversary,” the section devotes only two sentences to assessing that nature: “The number and high profile of international and domestic terrorist attacks and disrupted plots during the last two decades underscore the determination and persistence of terrorist organizations. Terrorists have proven to be relentless, patient, opportunistic, and flexible, learning from experience and modifying tactics and targets to exploit perceived vulnerabilities and avoid observed strengths.”8 This description may apply to some terrorists somewhere, including at least a few of those involved in the September 11 attacks. Yet, it scarcely describes the vast majority of those individuals picked up on terrorism charges in the United States since those attacks. The inability of the DHS to consider this fact even parenthetically in its fleeting discussion is not only amazing but perhaps delusional in its single-minded preoccupation with the extreme. In sharp contrast, the authors of the case studies, with remarkably few exceptions, describe their subjects with such words as incompetent, ineffective, unintelligent, idiotic, ignorant, inadequate, unorganized, misguided, muddled, amateurish, dopey, unrealistic, moronic, irrational, and foolish.9 And in nearly all of the cases where an operative from the police or from the Federal Bureau of Investigation was at work (almost half of the total), the most appropriate descriptor would be “gullible.” In all, as Shikha Dalmia has put it, would-be terrorists need to be “radicalized enough to die for their cause; Westernized enough to move around without raising red flags; ingenious enough to exploit loopholes in the security apparatus; meticulous enough to attend to the myriad logistical details that could torpedo the operation; self-sufficient enough to make all the preparations without enlisting outsiders who might give them away; disciplined enough to maintain complete secrecy; and—above all—psychologically tough enough to keep functioning at a high level without cracking in the face of their own impending death.”10 The case studies examined in this article certainly do not abound with people with such characteristics. In the eleven years since the September 11 attacks, no terrorist has been able to detonate even a primitive bomb in the United States, and except for the four explosions in the London transportation system in 2005, neither has any in the United Kingdom. Indeed, the only method by which Islamist terrorists have managed to kill anyone in the United States since September 11 has been with gunfire—inflicting a total of perhaps sixteen deaths over the period (cases 4, 26, 32).11 This limited capacity is impressive because, at one time, small-scale terrorists in the United States were quite successful in setting off bombs. Noting that the scale of the September 11 attacks has “tended to obliterate America’s memory of pre-9/11 terrorism,” Brian Jenkins reminds us (and we clearly do need reminding) that the 1970s witnessed sixty to seventy terrorist incidents, mostly bombings, on U.S. soil every year.12 The situation seems scarcely different in Europe and other Western locales. Michael Kenney, who has interviewed dozens of government officials and intelligence agents and analyzed court documents, has found that, in sharp contrast with the boilerplate characterizations favored by the DHS and with the imperatives listed by Dalmia, Islamist militants in those locations are operationally unsophisticated, short on know-how, prone to making mistakes, poor at planning, and limited in their capacity to learn.13 Another study documents the difficulties of network coordination that continually threaten the terrorists’ operational unity, trust, cohesion, and ability to act collectively.14 In addition, although some of the plotters in the cases targeting the United States harbored **visions** of toppling large buildings, destroying airports, setting off dirty bombs, or bringing down the Brooklyn Bridge (cases 2, 8, 12, 19, 23, 30, 42), all **were nothing more than wild fantasies**, **far beyond** the plotters’ **capacities** however much they may have been encouraged in some instances by FBI operatives. Indeed, in many of the cases, target selection is effectively a random process, lacking guile and careful planning. Often, it seems, targets have been chosen almost capriciously and simply for their convenience. For example, a would-be bomber targeted a mall in Rockford, Illinois, because it was nearby (case 21). Terrorist plotters in Los Angeles in 2005 drew up a list of targets that were all within a 20-mile radius of their shared apartment, some of which did not even exist (case 15). In Norway, a neo-Nazi terrorist on his way to bomb a synagogue took a tram going the wrong way and dynamited a mosque instead.15 Although the efforts of would-be terrorists have often seemed pathetic, even comical or absurd, the comedy remains a dark one. Left to their own devices, at least a **few of these** often **inept and** almost always **self-deluded individuals could** eventually have **commit**ted some **serious**, if small-scale, **damage**.

**their authors are hacks**

Greenwald 2012 (Glenn Greenwald, former Constitutional and civil rights litigator, August 15, 2012, “The sham ‘terrorism expert’ industry,” Salon, http://www.salon.com/2012/08/15/the\_sham\_terrorism\_expert\_industry/)

But there’s a very similar and at least equally important (though far less discussed) constituency deeply vested in the perpetuation of this fear. It’s the sham industry Walt refers to, with appropriate scare quotes, as “terrorism experts,” who have built their careers on fear-mongering over Islamic Terrorism and can stay relevant only if that threat does.¶These “terrorism experts” form an incredibly incestuous, mutually admiring little clique in and around Washington. They’re employed at think tanks, academic institutions, and media outlets. They can and do have mildly different political ideologies — some are more Republican, some are more Democratic — but, as usual for D.C. cliques, ostensible differences in political views are totally inconsequential when placed next to their common group identity and career interest: namely, sustaining the myth of the Grave Threat of Islamic Terror in order to justify their fear-based careers, the relevance of their circle, and their alleged “expertise.” Like all adolescent, insular cliques, they defend one another reflexively whenever a fellow member is attacked, closing ranks with astonishing speed and loyalty; they take substantive criticisms very personally as attacks on their “friends,” because a criticism of the genre and any member in good standing of this fiefdom is a threat to their collective interests.¶ On a more substantive level, any argument (such as Walt’s) that puts the Menace of Islamic Terror into its proper rational perspective — namely, that it pales in comparison to countless other threats (including Terrorism from non-Muslim individuals and states); that it is wildly exaggerated considering what is done in its name; and that it is sustained by ugly sentiments of Islamophobic bigotry — is one that must be harshly denounced. Such an argument not only threatens their relevance but also their central ideology: that Terror is an objective term that just happens almost always to mean Islamic Terror, but never American Terror.¶Thus, Walt’s seemingly uncontroversial article was published for not even 24 hours when it was bitterly attacked for hours on Twitter this morning by Daveed Gartenstein-Ross, and it’s not hard to see why. Looking at Gartenstein-Ross’s reaction and what drives it sheds considerable light onto this sham “terrorism expert” industry.¶ Gartenstein-Ross’ entire lucrative career as a “terrorism expert” desperately depends on the perpetuation of the Islamic Terror threat. He markets himself as an expert in Islamic Terror by highlighting that he was born Jewish, converted to Islam while in college, and then Saw the Light and converted to Christianity. During his short stint as a Muslim, he worked at the al-Haramain charity foundation in Oregon — the same one that was found to have been illegally spied upon by the Bush NSA — but became an FBI informant against the group because — as he claimed in a book,”My Year Inside Radical Islam”, which he subsequently wrote to profit off of his conduct — he was horrified by “the group hatreds and anti-intellectualism of radical Islam.”¶ He is now listed as an “expert” at the neocon Foundation for the Defense of Democracies (the group’s list of “experts” is basically a Who’s Who of every unhinged neocon extremist in the country). Gartenstein-Ross is specifically employed by the Foundation as something called “Director of the Center for the Study of Terrorist Radicalization.” According to his own bio, he also “consults for clients who need to be at the forefront of understanding violent non-state actors and twenty-first century conflict” including for “major media companies, and strategic consultations for defense contractors” and “also regularly designs and leads training for the U.S. Department of Defense’s Leader Development and Education for Sustained Peace (LDESP) courses, the U.S. State Department’s Office of Anti-Terrorism Assistance, and domestic law enforcement.”¶ Unsurprisingly, Gartenstein-Ross — like so many “terrorism experts” in similar positions — is eager to depict Islamic Terror as a serious threat: he knows where his bread his buttered and does not want the personal cash train known as the War on Terror ever to arrive at a final destination. If you were him, would you?

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

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

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

# Alt causes

**Goldstone report destroys the LOAC**

Michael A. Newton 10, Law Prof @ Vanderbilt, “LAWFARE AND THE ISRAELI-PALESTINE PREDICAMENT: Illustrating Illegitimate Lawfare,” 43 Case W. Res. J. Int'l L. 255, ln

After detailing the content of the leaflet and radio broadcast warnings, the Report concluded that the warnings did not comply with the obligations of Protocol I because Israeli forces were presumed to have had the capability to issue more effective warnings, civilians in Gaza were uncertain about whether and where to go for safety, and some places of shelter were [\*277] struck after the warnings were issued. n91 Thus, despite giving more extensive warnings to the civilian population than in any other conflict in the long history of war, the efforts of the Israeli attackers were equated with attacks intentionally directed against the civilian population. This approach eviscerates the appropriate margin of appreciation that commanders who respect the law and endeavor to enforce its constraints should be entitled to rely upon--and which the law itself provides. There is simply no legal precedent for taking the position that the civilians actually respond to such warnings, particularly in circumstances such as Gaza where the civilian population is intimidated and often abused by an enemy that seeks to protect itself by deliberately intermingling with the innocent civilian population. The newly minted Goldstone standard for warning the civilian population would displace operational initiative from the commander in the attack to the defender who it must be remembered commits a war crime by intentionally commingling military objectives with protected civilians. This aspect of the report would itself serve to amend the entire fabric of the textual rules that currently regulate offensive uses of force in the midst of armed conflict.¶ This, then, is the essence of illegitimate lawfare. Words matter--particularly when they are charged with legal significance and purport to convey legal rights and obligations. When purported legal "developments" actually undermine the ends of the law, they are illegitimate and inappropriate. Legal movements that foreseeably serve to discredit the law of armed conflict even further in the eyes of a cynical world actually undermine its utility. Lawfare that creates uncertainty over the application of previously clear rules must be opposed vigorously because it does perhaps irrevocable harm to the fabric of the laws and customs of war. Illegitimate lawfare will marginalize the precepts of humanitarian law if left unchecked, and may serve to create strong disincentives to its application and enforcement. Knowledge of the law and an accompanying professional awareness that the law is binding remains central to the professional ethos of military forces around our planet irrespective of the reality that incomplete compliance with the jus in bello remains the regrettable norm. Hence, it logically follows that any efforts to distort and politicize fundamental principles of international law cannot be meekly accepted as inevitable developments.

**UN peace operations undermine the LOAC**

Matthew E. Dunham 13, JD Dickinson, “SACRIFICING THE LAW OF ARMED CONFLICT IN THE NAME OF PEACE: A PROBLEM OF POLITICS,” 69 A.F. L. Rev. 155, ln

Peace operations are the United Nation's (UN's) core business and its most visible activity. n3 Between 1948 and 2012, the UN Department of Peacekeeping Operations (DPKO) conducted sixty-seven peace operations with the general purpose of ending violence. n4 The worldwide presence of peace operation forces is even larger when one adds operations carried out by states under unified command. n5 [\*157] When conducting peace operations, the DPKO maintains that successful operations are based in the rule of law. n6 This principle clearly follows from one of the major purposes of the UN to "maintain international peace and security . . . in conformity with the principles of justice and international law." n7 Nevertheless, to sustain political support for some peace operations, the UN and its member states intentionally ignore the applicability of the law of armed conflict (LOAC) n8 by refusing to classify hostilities as an armed conflict and by wrongly denying that peace operation forces have become belligerents in armed conflict. If the international community wishes to conduct high-intensity peace operations without causing the LOAC to be cast aside in future conflicts, it must promote the rule of law by ceasing to pretend that such operations are passive and impartial. This paper provides three examples where the UN and its member states improperly circumvented the LOAC. The first two examples concern intervention of peace operation forces in East Timor by Australia and then the UN between 1999 and 2000. Both Australia and the UN determined the LOAC did not apply to hostilities even though the facts on the ground required its application. n9 The third example examines the UN's intervention in the Ivory Coast in 2011, where the UN conducted air assaults against one party to a non-international armed conflict (NIAC). After the offensive, the UN Secretary-General implausibly denied the UN had become a party to the conflict, thereby denying the application of the LOAC as a matter of law to those UN actions. n10 The UN and its member states sacrifice the LOAC in peace operations because of conflicting concepts of sovereignty and an unsustainable adherence to traditional peacekeeping doctrine. Under traditional peacekeeping doctrine, a peace operation force must gain consent from the parties, remain impartial to the conflict, and only use force in self-defense. n11 Traditional peacekeeping is based on a Westphalian concept of sovereignty, which absolutely prohibits interference in the [\*158] internal affairs of another state. n12 More recently, however, peace operations have become more robust and aggressive. n13 Particularly since the mid-1990s, the UN Security Council has typically authorized peace operations under Chapter VII of the UN Charter to not only use force for individual and unit self-defense, but also to further the mission's mandate and protect civilians. n14 These more aggressive peace operations are based on a post-Westphalian view that a sovereign's inability or unwillingness to protect its citizens could result in involuntary forfeiture of sovereignty. n15 Further obscuring the application of the LOAC in peace operations is the fact that the international community lacks accepted definitions for peace operations and its different forms, such as "peacekeeping" and "peace enforcement." n16 While the DPKO distinguishes five types of peace operations (conflict prevention, peacekeeping, peace enforcement, peacemaking, and peace building), it only generically describes the activities. n17 The lack of clear definitions makes it difficult [\*159] to consistently apply the terms. While Part II of this paper generally distinguishes between peacekeeping and peace enforcement, the majority of the paper uses the generic term "peace operation" when feasible to emphasize the importance of consistency in the application of terms. n18 The international community is forcing a square peg into a round hole by trying to apply traditional Westphalian principles of consent, impartiality, and the use of force in self-defense to robust peace operations justified under a post-Westphalian concept of sovereignty. To fit the peg into the Westphalian idea of a valid peace operation, the UN and its member states avoid objective classification of hostilities and proper characterization of participants in hostilities. Unfortunately, such political maneuvering sacrifices the LOAC--represented by the pieces shaved off the square peg as it breaks down to fit the round hole. Instead of avoiding the LOAC, peace operation forces should promote and respect the LOAC by objectively identifying their role and the nature hostilities. Otherwise, states may use examples of peace operations to justify unlawful actions in armed conflict. The next section of this paper, Part II, focuses on the evolution of peace operations as background for considering why the UN and states conducting peace operations sacrifice the LOAC in the name of peace. It discusses the origin of peace operations under a Westphalian concept of sovereignty and shows how such operations have expanded with a shifting view of sovereignty. This section also examines the evolution of the application of the LOAC to peace operations--from an initial perspective that the LOAC never applies to peacekeepers, to a view that the LOAC will apply if peacekeepers become a party to a conflict. Despite theoretical progression on the application of the LOAC to peace operations, Part III analyzes hostilities in East Timor between 1999 and 2000, and the Ivory Coast in early 2011, to illustrate intentional avoidance of the LOAC in peace operations. Within these contexts, Part IV shows how peace operation forces in East Timor and the Ivory Coast applied traditional Westphalian peacekeeping principles to post-Westphalian peace operations for political purposes. Further, this section shows [\*160] why such political calculations undermine the LOAC. Finally, Part V argues the error in sacrificing the LOAC to justify humanitarian intervention. This section contends that intentional avoidance of the LOAC in peace operations creates a model for states to ignore the LOAC in other conflicts. It also shows that the apparent success in one peace operation undertaken by political maneuver may, in fact, be detrimental to the next humanitarian crisis. Accordingly, the UN and its member states must properly categorize hostilities and the participant's status if they wish to use military force in peace operations. II. THE EVOLUTION OF PEACE OPERATIONS AND THE APPLICABILITY OF THE LAW OF ARMED CONFLICT Peace operations are a core activity of the UN, which is charged with maintaining international peace and security in accordance with the rule of law. When conducting such operations, however, traditional notions of sovereignty undermine the ability of the UN and its member states to effectively adhere to the LOAC. To explore this problem, this section examines the origin of peace operations in light of the Westphalian concept of sovereignty in which they were developed, n19 and it shows how the purpose of peace operations has expanded with a shifting concept of sovereignty. The section then discusses the types of circumstances that trigger the LOAC. Finally, it addresses the evolving application of the LOAC to peace operations and identifies the political dilemma of applying the LOAC to certain types of peace operations.

# Conflation inev

**Conflation between jus ad bellum and jus in bello is globally inevitable**

Robert Sloane 9, Associate Professor of Law, Boston University School of Law, 2009, “The Cost of Conflation: Preserving the Dualism of Jus ad Bellum and Jus in Bello in the Contemporary Law of War,” Yale Journal of International law, http://www.yale.edu/yjil/files\_PDFs/vol34/Sloane

This case reflects, in microcosm, a pressing issue in the contemporary law of war. After 9/11, countless scholars and statesmen have called for changes in the jus ad bellum, the law governing resort to force, or the jus in bello, the law governing the conduct of hostilities.10 These invitations to reform, whatever their merit, raise an equally vital but distinct legal issue that has been largely neglected in recent legal scholarship: the relationship between the traditional branches of the law of war.11 Since the U.N. Charter introduced a positive jus ad bellum into international law, the reigning dogma has been that reflected in the SCSL Appeals Chamber’s opinion: the jus ad bellum and the jus in bello are, and must remain, analytically distinct. In bello rules and principles apply equally to all combatants, whatever each belligerent’s avowed ad bellum rationale for resorting to force: self-defense, the restoration of democratic government, territorial conquest, or the destruction of a national, ethnic, racial, or religious group, as such.12 It is immaterial, on this view, whether the ad bellum intent of the militia leaders indicted by the SCSL had been to restore a democratic government or to topple that government and install a brutal regime in its stead: they must adhere to and be judged by the same in bello rules and principles.

Postwar international law regards this analytic independence as axiomatic,13 as do most just war theorists. They insist that “[i]t is perfectly possible for a just war to be fought unjustly and for an unjust war to be fought in strict accordance with the rules.”14 In theory, then, any use of force may be simultaneously lawful and unlawful: unlawful, because its author had no right to resort to force under the jus ad bellum; lawful, if and to the extent that its author observes “the rules,” that is, the jus in bello. 15 I will refer to this particular rule, which insists on the analytic independence of ad bellum and in bello, as the dualistic axiom. Despite its widespread acceptance,16 the axiom, as we will see, is logically questionable, 17 undertheorized, and at times disregarded or misapplied in practice—with troubling consequences for the policies that underwrite these components of the contemporary law of war. Consider briefly a few examples, which, among others, will be explored in greater detail below:

• In 1999, the North Atlantic Treaty Organization (NATO) carried out a four-month air campaign against Serbia. At the outset, NATO’s leaders made an in bello decision: its pilots would fly at a minimum height of 15,000 feet to reduce their risk from anti-aircraft fire essentially to zero, even though that would increase the risk to Serbian civilians because it often prevented visual confirmation of legitimate military targets. Many would argue that the in bello principle of proportionality obliges combatants to take some risk in an effort to reduce the risk to enemy civilians.18 If so, the perceived legitimacy of NATO’s avowed ad bellum goal, i.e., to halt the incipient ethnic cleansing of ethnic Albanian Kosovars, influenced the international ex post appraisal of NATO’s in bello conduct in the conflict.19

• After 9/11, the Bush administration launched and prosecuted what it described as a “Global War on Terror.” In this war, if it is a war,20 political elites and their lawyers invoked ad bellum factors—for example, the novel nature of the conflict or the enemy and the imperative to avoid at any cost another catastrophic terrorist attack— to justify or excuse in bello violations.21 Both treaties and custom, for example, categorically prohibit the in bello tactic of torture. It is difficult to dispute that the United States deliberately tortured some detainees in its custody. Alberto R. Gonzales also wrote in what has become an infamous memorandum that “the war against terrorism is a new kind of war,” which “renders obsolete Geneva’s strict limitations on questioning of enemy prisoners and renders quaint some of its provisions.” 22 One might recharacterize this assertion in the framework of this Article as a suggestion that ad bellum considerations may justifiably relax, or even vitiate, what some see as anachronistic in bello constraints.23

• In 1996, the International Court of Justice (ICJ) considered the legality of the threat or use of nuclear weapons.24 This required it to analyze both the jus ad bellum and the jus in bello. The Court concluded that the jus in bello generally prohibits nuclear weapons— with a curious qualification. It could not say “whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake.”25 Again, to recharacterize this statement in the framework of this Article: if the ad bellum consequences for one party to a conflict become bad enough, a weapon otherwise categorically prohibited by the jus in bello might become legal for that party, although presumably it would remain illegal for the other—unless that other party, too, “a State,” faced an “extreme circumstance of self-defence.”

The logic in each of these examples is contrary to the dualistic axiom, which insists that in bello constraints apply equally to all parties to a conflict. They do not vary based on ad bellum appraisals of the justice, legitimacy, or even urgency of one side’s asserted casus belli (cause or justification for resort to force). 26 Yet these examples reflect a trend in contemporary international law to relax or disregard the dualistic axiom, that is, to allow ad bellum considerations to influence and, at times, even to vitiate the jus in bello—an outcome that degrades the efficacy of both components of the law of war. Recent state practice and some jurisprudence also suggest a related, and equally misguided, tendency to collapse the distinct ad bellum and in bello proportionality constraints imposed by the law of war. As explained in greater detail below, today, in contrast to the pre-U.N. Charter era, all force must be doubly proportionate: that is, proportionate relative to both the jus ad bellum and the jus in bello. 27 Yet, at times, the ICJ has confused, neglected, or misapplied the two principles, as have belligerents—again to the detriment of the key values and policies that underwrite the contemporary law of war.

# Armed conflict

**zone of active hostility/hot battlefield is a legal fiction**

Corn, 13 -- South Texas College of Law Presidential Research Professor of Law

[Geoffrey, former JAG officer and chief of the law of war branch of the international law division of the US Army, Lieutenant Colonel, U.S. Army (Retired), Senate Armed Services Committee Hearing, "The law of armed conflict, the use of military force, and the 2001 Authorization for Use of Military Force," Congressional Documents and Publications, 6-16-13, l/n, accessed 8-23-13, mss]

I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, **an**operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield."Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack.

**This jacks solvency – no definition of hostilities guarantees circumvention**

Farley ’12 (Benjamin R. Farley, J.D. with honors, Emory University School of Law, 2011. Editor-in-Chief, Emory International Law Review, 2010-2011. M.A., The George Washington University Elliott School of International Affairs, 2007, South Texas Law Review, 54 S. Tex. L. Rev. 385, “ARTICLE: Drones and Democracy: Missing Out on Accountability?”, Winter, 2012)

Congress should strengthen the WPR regime by defining hostilities in a manner that links hostilities to the scope and intensity of a use of force, irrespective of the attendant threat of U.S. casualties. Without defining hostilities, Congress has ceded to the President the ability to evade the trigger and the limits of the WPR. The President's adoption of a definition of hostilities that is tied to the threat of U.S. casualties or the presence of U.S. ground troops opens the door to long-lasting and potentially intensive operations that rely on drones - at least beyond the sixty-day window - that escape the WPR by virtue of drones being pilotless (which is to say, by virtue of drones being drones). Tying hostilities to the intensity and scope of the use of force will limit the President's ability to evade Congressional regulation of war. It will curtail future instances of the United States being in an armed conflict for purposes of international law but not for purposes of domestic law, as was the case in Libya. Finally, a statutory definition of hostilities will provide the judiciary with a meaningful standard for determining presidential compliance with the WPR - assuming the future existence of a plaintiff able to surmount the various prudential doctrines that have counseled against entertaining WPR cases thus far.

# Johnson/Thumper

#### Prefer issue-specific uniqueness over thumpers- Obama still has enough juice left for TPA and TTIP now

Hadar, 1-7 – Business Times Singapore Washington correspondent

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

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

**New appointments solves backlash**

**Bykowicz 12/18**, Julie, reporter for Bloomberg News, “Obama soothes Congress health care jitters with Hill veteran,” 12/18, http://politicsinminnesota.com/2013/12/obama-soothes-congress-health-care-jitters-with-hill-veteran/#ixzz2nxIQ5JC

Seasoned hands The Obama White House, attempting to reset its agenda following the fumbled rollout of the health care program, has re-enlisted seasoned hands such as Schiliro to improve the party’s chances of holding control of the Senate. If they fail and Republicans, as expected, hold the House, the president could spend the last two years of his presidency vetoing Republican-sponsored bills aimed at repealing Obamacare. This week, the White House named former Microsoft Corp. executive Kurt DelBene as manager of the health-insurance enrollment system, which includes the error-prone website. DelBene replaces Jeffrey Zients, Obama’s soon-to-be top economic adviser, whom the president had tasked with the job temporarily. After Schiliro’s return last week, the White House chose as legislative director Katie Beirne Fallon, a former aide to New York Sen. Charles Schumer whose role is partly to reassure Senate Democrats about coordinated messages on health care. Reid yells The new team, which also includes as a special adviser John Podesta, onetime chief of staff to President Bill Clinton, is “going to help so much in getting good political judgment in the White House,” Senate Majority Leader Harry Reid said in an interview last week on Political Capital with Al Hunt. Reid said he yelled with excitement upon hearing of Podesta’s hiring. Schiliro declined to be interviewed for this article. “A law that guarantees coverage to millions of Americans, improves quality, and saves hundreds of billions of dollars is worth fighting for,” he said in a statement. “I hope to help with that effort.” A Baldwin, New York, native, Schiliro, 57, began his career on Capitol Hill in 1982, after graduating from Long Island’s Hofstra University and Lewis & Clark Law School in Portland, Oregon. In 1992 and 1994, he ran unsuccessfully for Congress in his New York hometown. Waxman’s man Much of his time on Capitol Hill was spent as California Rep. Henry Waxman’s chief of staff. In 1994, when Waxman was chairman of Energy and Commerce’s health subcommittee, Schiliro helped coordinate hearings during which seven tobacco company executives testified under oath that nicotine wasn’t addictive. While Waxman was chairman of the Oversight and Government Reform Committee, Schiliro pushed for a congressional investigation of steroid use in Major League Baseball. He also helped organize an examination of the “friendly fire” death of Army Ranger Pat Tillman, a former National Football League star. In 2004, Schiliro switched chambers, spending a year as policy director for former Senate Majority Leader Tom Daschle of South Dakota. When Obama, a junior senator from Illinois, ran for president in 2008, Schiliro joined his campaign as congressional envoy. Within days of Obama’s election, the president announced Schiliro as his legislative director, a position he held until early 2011. Taking lead With a push to change financial regulations at the top of the agenda, Schiliro was willing to let then-Connecticut Sen. Chris Dodd take the lead on the legislation, said Dodd’s former top aide, Edward Silverman. “In that job you have to know when it’s time to listen and when it’s time to jump in. He gets that,” Silverman said. “You can’t always run around with your chest puffed out telling people ‘the president wants this!’ and expect good results.” Schiliro’s first tenure with the White House was “one of the most productive legislative periods in our history,” Obama said in a 2011 statement. The president calls him “Third Way Phil” for his ability to find solutions to politically fraught situations, senior Obama adviser Valerie Jarrett told an audience at Rhodes State College in Lima, Ohio, last year, according to the local newspaper. Schiliro stepped back from the top legislative job in February 2011, serving as a senior adviser until the end of the year. He moved with his family to New Mexico, where he began a consulting business for nonprofits, a project interrupted when Obama’s chief of staff, Denis McDonough, asked him to come back. Taking offensive “Phil’s got a real talent to manage and oversee a process, especially on Capitol Hill,” said Bill Daley, who was Obama’s chief of staff in 2011. “He’s well-liked in the White House and on the Hill. The comfort level is already there, so there’s no learning curve.” Some Democratic strategists have urged their partisan allies to go on offense about Obamacare’s positive effects instead of just defending it against Republican attacks. A Dec. 3-8 poll of 86 competitive House districts shows a majority of Americans want to fix or retain the law rather than repeal it, as Republicans have demanded. Stanley Greenberg, the Democratic pollster who conducted the survey for Women’s Voices Women Vote Action Fund and Democracy Corps, said Democrats shouldn’t run from Obamacare next year. “One of the bigger problems in the rollout is that the president has not made a big enough argument for what he’s doing,” Greenberg said. “I think there’s going to be a positive story to tell by the elections.” Testing theory House Democrats are beginning to test that theory. Online ads released this week by their campaign arm in 44 competitive districts say that repealing Obamacare would be too costly. Called “Faces of Repeal,” the minute-long web ad includes testimonials from people benefiting from the law. “I take insulin and 12 other medications, and my daughter’s medicine costs $700. We couldn’t afford it without health-care reform,” Diane of Denver says in the ad. Schiliro is just the person to help expand those messages, Waxman said in an interview. “He can reassure people why this law still makes sense,” Waxman said. “It’s unfortunate the rollout wasn’t handled well, but more and more, we’re going to hear the positive stories.” Schiliro, he said, can help with that because “he has a real sense of communications.” Former Rep. Tom Davis, a Virginia Republican, got to know Schiliro through the Oversight committee. “He knows the Hill very well,” Davis said. “The administration is going to need that to hold their members in line. And with Republicans, he knows what’s doable and what’s not. He knows their pressure points.”

#### No fights over unemployment- election fears

Lillis and Needham 1-7-14 [Mike and Vicki, The Hill, “Obstructive? Senate GOP says not us!” <http://thehill.com/homenews/senate/194722-obstructive-senate-gop-says-not-us>]

Senate Republicans on Tuesday showed they don’t want to be cast as election-year villains in the partisan fight over unemployment benefits.¶ Six GOP senators voted to advance legislation extending federal unemployment insurance payments without offsetting the $6.4 billion cost, giving Democrats the minimum 60 votes needed to overcome a filibuster. The surprise outcome suggests that Senate Republicans are looking to avoid negative headlines in a year when GOP leaders believe they can win back the majority for the first time since 2006.¶ “Why end the process from even starting?” Sen. Dan Coats (R-Ind.), one of the “yes” votes, told reporters after the debate. “If Harry [Reid] wants to not give us an opportunity to offer amendments, to debate reforms, to accept a pay-for, then Democrats will have to answer the question.”

# PC Key

#### PC key to overcome opposition

Business Times, 12-17 [Business Times Singapore (Editorial), "Obama must make the case for freer trade," 12-17-13, l/n, accessed 1-3-14]

The TPA bill, which is expected to be introduced in January, will face fierce opposition from Democratic legislators affiliated with the labour unions and environmentalist forces who warn that free trade accords such as the TPP encourage American companies to relocate operations to low-wage emerging economies that don't adhere to environmental standards. There will also be pushback from conservative Republican lawmakers with ties to the Tea Party movement who don't want to strengthen the power of President Barack Obama by granting him a new TPA. So the president now has his work cut out. He must place the goal of liberalising global trade on the top of his policy agenda and exert leadership to ensure that the TPA legislation gets approved by Congress early, before Democrats and Republicans start preparing for next year's midterm Congressional elections. But he must articulate a coherent global trade narrative which highlights the benefits that liberalising trade, especially with Asia, can bring to the American economy - by creating new jobs and investments, while strengthening US global leadership.

#### PC key to overcome interest group pressure

WSJ, 13 [Wall Street Journal, "Obama's Trade Jeopardy," 11-19-13, online.wsj.com/news/articles/SB10001424052702304243904579196203165156712, accessed 1-3-13]

Presidents of both parties have used such authority to pass numerous trade deals, including Bill Clinton with Nafta. Congress last renewed fast-track authority in 2002, and it let President Bush wrap up pacts with Chile, Singapore, Australia and Peru. Mr. Obama also benefited because the free-trade agreements with Colombia, Panama and South Korea, which Congress approved in 2011, were initiated and thus grandfathered before the authority's 2007 sunset. Trade agreements are often difficult to pass, as local or regional interests pressure Congress. That's why a President has to lead by explaining the national interest. Bill Clinton did this with regularity, making the case that trade was vital to American prosperity.

# A2 Boyer/Not pushing

#### Prefer issue-specific uniqueness over thumpers- Obama still has enough juice left for TPA and TTIP now

Hadar, 1-7 – Business Times Singapore Washington correspondent

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

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

#### TPA will pass but its close- there’s a deal on the table and momentum

Hinz, 1-2 – Chicago Business staff

[Greg, "Fight builds to give Obama fast-track trade authority," Chicago Business, 1-2-14, www.chicagobusiness.com/article/20140102/BLOGS02/140109985, accessed 1-3-14]

Fight builds to give Obama fast-track trade authority

Big Illinois exporters could get a vote very early this new year on something they've wanted for a long time: fast-track authority for President Barack Obama to negotiate new international trade deals. But the issue in the House now is "very close." So says North Side congressman Mike Quigley, who unlike many Democratic House members says action is needed despite concerns from labor and some other groups. Like it or not, "this is a global economy," said Mr. Quigley in an interview earlier this week. "If you're not at the bargaining table, if you don't get an agreement, someone else does," he said, referring specifically to China, which has been building ties rapidly with some of America's traditionally strong trading partners in Asia. "You'll be left in the dust." Many top Illinois businesses already are lobbying to extend Trade Promotion Authority, as fast-track formally is known. "From the 1930s until 2007, Congress has authorized every president to pursue trade agreements that open markets for U.S. goods and services," Caterpillar Inc. Chairman and CEO Doug Oberhelman wrote in a recent guest editorial. "Today, trade supports more than one in five American jobs. U.S. exports have grown more than twice as fast as GDP since 2002, accounting for 14 percent of GDP in 2012. And workers in U.S. companies that export goods earn on average up to 18 percent more than those in similar jobs in non-exporting companies," he added. "Updated TPA legislation would provide clear guidance on Congress' requirements for trade agreements. It would also provide our trade negotiating partners with a degree of comfort that the United States is committed to the international trade negotiating process and the trade agreements we negotiate." But Democrats in particular have been leery to renew the authority because of concerns that workers elsewhere are underpaid, putting Americans at a disadvantage. Many environmental groups express similar concerns stemming from low standards abroad. Even some Republicans are withholding support in highly partisan Washington. But given international realities, the solution is not to ignore what competing countries are doing but "get the best deal possible" at the table for both labor and the environment. "It's tough being in the middle in this Congress . . . (But) this is important for Chicago and Illinois. We can't live in isolation." Though the Obama White House has not signaled action, Mr. Quigley says he expects fast-track legislation to hit the House floor in January. And another Chicagoan, former U.S. Commerce Secretary Bill Daley, says some momentum indeed has begun to build on behalf of the measure. "I think they have a compromise," Mr. Daley said. "Until the bill is on the floor, you never know for sure. But right now, **they're talking as if they have a deal**." If so, a long-pending proposed Asian trade deal could follow shortly thereafter. Look for Penny Pritzker, commerce secretary from Chicago, to play a role too. Meanwhile, Mr. Quigley says he's looking forward to playing an expanded role as a member of the House Appropriations Committee. That panel has been pretty much bypassed in the past couple of years as talks amid the top congressional leaders settled budget questions -- in one case after the government temporarily shut down. But with a new two-year budget deal recently approved and some additional funds available for domestic spending, "I think we could get back to the regular order," Mr. Quigley said. That could be a good thing for Chicago-area transit. Mr. Quigley is the third-ranking Democrat on the subcommittee that deals with housing and transit spending and, given rapid turnover in Congress, could be the top Democrat on that panel in two or three years.

[Matt note: Quigley = Congressman Mike Quigley (D-Il), Daley = former U.S. Commerce Secretary Bill Daley]

#### Prefer inside knowledge – our ev assumes their warrants

Goad, 12-6 – The Hill reporter

[Ben, "Lawmakers near deal to give Obama fast-track power," The Hill, 12-6-13, thehill.com/blogs/regwatch/administration/192306-lawmakers-near-deal-to-give-obama-fast-track-power, accessed 1-3-13]

House and Senate negotiators are **close** to an agreement that would give President Obama crucial authority to fast-track approval of major international trade deals now in the works, The New York Times reports. The congressional discussions come as negotiators wrap up talks in support of the 12-nation Trans-Pacific Partnership (TPP) agreement. At issue is whether Congress should grant Obama trade promotion authority (TPA). Under TPA or fast-track authority, administration negotiators send completed trade deals to Congress for an up-or-down vote, affording lawmakers no opportunity to submit amendments. More than 170 House members came out against fast-track authority last month, with many arguing that the trade talks have been too secretive and that Congress should play a greater role in the process, The Hill reported at the time. However, the Times, citing **a source with knowledge of the congressional discussions, says a deal could soon be struck.** "A congressional aide close to the negotiations said that both sides had made significant progress on reaching a fast-track deal, also known as trade-promotion authority," writes the Times’s Annie Lowrey. “But the aide, who declined to speak on the record because of the delicate nature of the talks, emphasized that an agreement was not complete.” Fast-track authority is considered critical for passage of the trade deals, as international negotiators are generally reluctant to sign off on an agreement that could later be changed via an amendment process.

# TOD / A2 Not Spending PC

#### Obama is going to ramp up involvement

Hennig, 12-20 -- Inside US Trade chief editor

[Jutta, "Fast-Track Bill Faces Uncertainty After Baucus Tapped To Be China Envoy," Inside U.S. Trade, 12-20-13, l/n, accessed 1-3-14]

After the cabinet meeting, a senior administration official told reporters that the administration as a whole plans to step up its outreach to Congress to make the case for fast track. "We'll all be working together to try and get it done and get done in a way that's as quickly as possible but has as **broad bipartisan** support as possible," the official said.

#### Fast-track will be introduced January 6th

Hennig, 12-20 -- Inside US Trade chief editor

[Jutta, "Fast-Track Bill Faces Uncertainty After Baucus Tapped To Be China Envoy," Inside U.S. Trade, 12-20-13, l/n, accessed 1-3-14]

Baucus, Finance Committee Ranking Member Orrin Hatch (R-UT) and Ways and Means Committee Chairman Dave Camp (R-MI) have made clear they want to introduce a bill to renew fast-track authority they have worked out as soon as Congress returns in early January. Sources said the lawmakers plan to introduce the bill the week of Jan. 6.

#### Prefer predictive evidence- introducing the bill will galvanize Obama’s involvement

Inside U.S. Trade, 12-13

["Camp Sees Fast-Track Vote 'Early Next Year' If Administration Engages," 12-13-13, l/n, accessed 1-3-14]

The TPA bill that will ultimately be introduced is very likely to be acceptable to the Office of the U.S. TradeRepresentative since Finance Committee trade staff weeks ago said that it was developed with the active engagement of U.S. Trade Representative Michael Froman (Inside U.S. Trade, Nov. 22). Supporters of a fast-track renewal, including a senior Democratic aide, said that USTR is actively engaged in coordinating the message and strategy on fast track with business and congressional supporters. USTR has already highlighted a Business Roundtable paper on the importance of fast-track on its website and Froman met with think tank representatives last month to discuss possible arguments to be made in favor of fast-track (Inside U.S. Trade, Nov. 29). Advocates for introducing the bill this week had argued that doing so would begin the process by galvanizing business into more lobbying and administration involvement in a pro-fast-track campaign. But other sources have warned against it saying it will only leave a bill open for stepped up attacks from opponents.

# A2 Iran

#### Even if Obama vetoes – it won’t cost capital

Mirengoff 12/9/13 (Paul, "Congress Considering New Sanctions on Iran")

President Obama will no doubt lobby hard against sanctions legislation. I wouldn’t be surprised to see the Democrats back off, claiming that they will revisit sanctions if no good deal has been reached when the six month negotiating period has expired.¶ If the Dems don’t fold, Obama presumably will veto the sanctions legislation. This will be a minor embarrassment for him and his Party, but no more.

# More Impacts

#### TPP failure shatters global economic stability and US credibility

**Goto ’13** [Shihoko Goto, program associate for Northeast Asia at the Woodrow Wilson Center, spent over ten years as a journalist writing about the international political economy with an emphasis on Asian markets, was an external affairs officer at the World Bank, has been a recipient of the Freeman Foundation’s Jefferson Fellowship and the John S. and James L. Knight Foundation’s journalism fellowship for the Salzburg Global Seminar, “The trade deal that can't afford to be derailed,” <http://www.upi.com/Top_News/Analysis/Outside-View/2013/09/06/The-trade-deal-that-cant-afford-to-be-derailed/UPI-62561378440180/>]

Time is running out for what would be the world's biggest trade deal to be clinched on time.¶ While rumblings of the possibility of the Trans-Pacific Partnership agreement not meeting its October deadline grow stronger, politics must not pre-empt the United States or Japan from stalling the momentum forward. The price to pay for the two biggest countries in the 12-country talks to walk away from TPP would be too great for both.¶ Cautious optimism about the global economic outlook prevails, not least at the latest Group of 20 summit in St. Petersburg, Russia. With the worst of Europe's financial crisis seemingly behind, economic concerns now focus on U.S. monetary policy and international tax codes but most attention will be focused on Syria.¶ Yet this is hardly the time to lose sight of the momentum that could further open markets worldwide. With the United States looking into signing a landmark trade pact with Europe under the auspices of the Transatlantic Trade and Investment Partnership, it is in Asia's best interest to ensure that TPP is successful.¶ In concluding the latest round of TPP negotiations in Brunei Aug. 30, the U.S. Trade Representative's office stated that officials from Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam as well as the United States still look "to conclude this landmark agreement this year," even as a slew of highly sensitive issues including opening dairy and auto markets, not to mention the sparring of pharmaceutical companies and tackling environmental regulations, being part of the mix.¶ But while the urgency to conclude what would be the world's most ambitious trade deal yet should be felt by Japan, it is in the United States' interest too for the October deadline to be met.¶ Japanese Prime Minister Shinzo Abe certainly has staked his political future into the success of TPP and, to date, the gamble has paid off.¶ Declaring that "if Japan alone should become inward-looking, we would have no chance of growth," Abe stated that TPP would also "significantly contribute to the security of our country and also to the stability of the Asia-Pacific region."¶ Joining the pact is a key part of his economic policy now known as "Abenomics," that looks to press ahead with structural reform that would include lowering tariffs on politically sensitive sectors including rice, which could obliterate some of Japan's most powerful farming groups.¶ The cost of TPP failing or even being watered down, however, would be far more damaging than the wrath of any single interest group, even the most powerful ones.¶ Massive debt, aging population, lackluster entrepreneurial incentives and energy challenges are but a few of the fundamental problems facing Japan that require the country to be an integral part of the global economy.¶ With China's ever-growing economic might on the one hand and Japan's seemingly continued slide on the economic ladder on the other, becoming a key player in the world's biggest trade deal to date would certainly enhance its standing in the global arena as it sits at the table to decide trade rules that will impact international markets over the next decades.¶ Equally important too would be an enhancement of Japan's relations with the United States. While South Korea concluded a bilateral free trade agreement with the United States in 2011, Tokyo has yet to sign an FTA with Washington. As such, the TPP agreement would effectively take place instead of a bilateral agreement between Japan and the United States.¶ Still, it is not only Japan that needs TPP. The United States too would be losing a tremendous opportunity to engage more actively with the Asia-Pacific region.¶ Granted, the treaty has caused outrage in certain sectors, most notably in the automobile industry. U.S. carmakers have clamored for tariffs on Japanese cars to be phased out only gradually, with the American Automotive Policy Council estimating that it would cost U.S. automakers $1 billion and about 100,000 U.S. jobs should tariffs be dropped immediately.¶ It goes without saying that certain industries in all TPP member countries will be particularly vulnerable to the competition and higher regulatory standards imposed by the trade pact. Yet the sheer size and ambition of the agreement also means that the United States would have a unique foothold in the Asia-Pacific region should it go through as planned.¶ With China's absence in the agreement, the United States will undoubtedly be the single most influential economy that will have a tremendous voice in shaping trade rules some of the world's most robust countries. Failure to play an active role in developing and implementing the framework would ultimately hurt the economic future of the United States.¶ Much rides on the success of the next round of talks in Bali, Indonesia, next month during the Asia Pacific Economic Cooperation meeting. Losing that momentum would have far greater consequences to the global economy as well as political stability worldwide than simply opening up markets on both sides of the Pacific.

#### Global war

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

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin. 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Feaver, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner. 1999). Separately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland's (1996, 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4 Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write: The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002. p. 89) Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. “Diversionary theory" suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1996), DeRouen (1995). and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force. In summary, recent economic scholarship positively correlates economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels.5 This implied connection between integration, crises and armed conflict has not featured prominently in the economic-security debate and deserves more attention. This observation is not contradictory to other perspectives that link economic interdependence with a decrease in the likelihood of external conflict, such as those mentioned in the first paragraph of this chapter. Those studies tend to focus on dyadic interdependence instead of global interdependence and do not specifically consider the occurrence of and conditions created by economic crises. As such, the view presented here should be considered ancillary to those views.

#### Economic decline causes terrorism

**Burton, J.D. candidate, Georgetown University Law Center, 2004** (Adam, “NOTE: A Grave and Gathering Threat: Business and Security Implications of the AIDS Epidemic and a Critical Evaluation of the Bush Administration's Response”, 35 Geo. J. Int’l L. 433, lexis)

The consequences for economic development cut even deeper than injury to multinationals already in Africa, however, as economic growth or stagnation for Africa has reverberations on the macro level beyond the continent. At stake is the legitimacy of Western political and economic ideals in the developing world. For the Bush Administration, spreading liberal democracy is in many ways intertwined with the war on terror. [n53](http://www.lexisnexis.com.ezproxy.liberty.edu:2048/us/lnacademic/frame.do?tokenKey=rsh-20.772379.6474802146&target=results_DocumentContent&reloadEntirePage=true&rand=1246152653665&returnToKey=20_T6857740029&parent=docview#n53) Countries with an interest in global economic stability are less likely to sponsor terrorism, and individuals with a stake in the capitalist order (i.e., people wealthy enough to own private property) are less likely to join terrorist groups. [n54](http://www.lexisnexis.com.ezproxy.liberty.edu:2048/us/lnacademic/frame.do?tokenKey=rsh-20.772379.6474802146&target=results_DocumentContent&reloadEntirePage=true&rand=1246152653665&returnToKey=20_T6857740029&parent=docview#n54) In contrast, a class of desperate and hopeless people in Africa might produce the next flood of converts to radical Islam, which has already penetrated East Africa and has  [\*442]  begun to spread southward at a steady pace. [n55](http://www.lexisnexis.com.ezproxy.liberty.edu:2048/us/lnacademic/frame.do?tokenKey=rsh-20.772379.6474802146&target=results_DocumentContent&reloadEntirePage=true&rand=1246152653665&returnToKey=20_T6857740029&parent=docview#n55)

#### T-TIP key to US-EU relations and EU soft power

Brattberg, 13 – Swedish Institute of International Affairs analyst

[Erik, currently Visiting Fellow at the Atlantic Council of the United States and a Non-Resident Fellow at the Paul H. Nitze School of Advanced International Studies (SAIS) at Johns Hopkins University, "The Geopolitical Importance of TTIP," 11-8-13, www.euglobalstrategy.eu/nyheter/opinions/reinventing-the-west-the-geopolitical-importance-of-ttip, accessed 1-3-14]

Although the obstacles remain several, European and American leaders have very good reasons to keep pushing for a TTIP deal. Besides the immediate positive economic effects for both sides, the agreement could also give spark to a more strategic transatlantic relationship – something that is desperately needed. As former Secretary of State Hillary Clinton has observed, TTIP could potentially serve as a second anchor, in addition to NATO, binding together the US and the EU. Along similar lines, the European Global Strategy report correctly notes that TTIP, if successful, could ‘spill over into more robust political and security cooperation’ between the US and Europe. There is a great sense of urgency to this task. 2015 will mark the ten-year anniversary of the New Transatlantic Agenda (NTA). Originally established by the Clinton White House, this framework was designed to bring the US and EU together. While some progress has been made over the past decade, the US-EU relationship remains far from strategic in nature. Washington still prefers to deal with European countries on a strictly bilateral level, rather than with Brussels. Clearly, a New Transatlantic Compact requires a new set of leadership structures. Moreover, the disappointments as of late with creating a robust EU security and defense policy has reinforced the notion that NATO is the only Euro-Atlantic security organization that really matters. While the US wants a strong EU as its core partner, it is uncertain about Brussels’ level of ambition. In fact, Washington currently thinks the EU has no ambition whatsoever. If Europe and the US can agree on TTIP it would send a signal to Washington that Brussels is indeed a serious strategic partner. If so, this could be the start of a recreated and re-invented transatlantic relationship. The development of a more strategic EU-US relationship could also help allay fears regarding the US ‘abandonment’ of Europe. While US strategic thinking is changing – and fast (the so-called ‘Asian pivot’ is only the beginning) – a more strategic transatlantic relationship would still serve a critical function for Washington, and not just on the security side of things. The drawdown of the military mission in Afghanistan means that the US will have less need for Europe in coming years. Focusing more on global economic and trade issues could constitute a new strategic imperative for closer EU-US ties. At the same time, for the EU, which still views itself predominantly as a global soft power, TTIP could help the union utilize its role as the world’s single largest trading bloc in a more strategic way. The EGS report correctly notes that the EU must seek to ‘maximize the opportunities that trade and development provide as a means of pursuing its strategic objectives’. TTIP is accordingly an opportunity for Europe to reinforce its role as a global trading superpower. In summary, Europe must strive for an ambitious and comprehensive TTIP. Such an agreement would not only generate economic growth on both sides of the Atlantic, it would also pave the way for a more strategic transatlantic partnership. As US strategic attention is quickly fading away from Europe toward the global East and South, an agreement could send a message to Washington that Europe remains America’s core partner in the world. In doing so, Europe could also draw on its unique strengths as a global trading superpower, but apply these strengths more strategically.

#### US-EU relations key to global war

O'Sullivan, 4 -- National Interest editor

(John, Nixon Center for Peace and Freedom Distinguished Fellow in International Relations, "Europe and the Establishment," The National Interest, 7-31-2004, nationalinterest.org/article/europe-and-the-establishment-2608]

The report's starting point -- that U.S.-European relations are extremely important -- is undeniable. A united Western alliance would shape world institutions in line with values and practices rooted in liberty and democracy and coax rising powers such as India and China into going along with this international status quo for the foreseeable future. Indeed, this is already happening as China accepts liberal economic rules at home in order to enter institutions such as the G7 and the World Trade Organization. By contrast, a disunited West would tempt such powers to play off Europe and America against each other and foster a global jockeying for power not unlike the maneuvering between a half-dozen great powers that led to 1914.

#### TPP key to prevent global internet restrictions- that’s 1NC Scheinder- impact is extinction

Eagleman 10

[David Eagleman is a neuroscientist at Baylor College of Medicine, where he directs the Laboratory for Perception and Action and the Initiative on Neuroscience and Law and author of Sum (Canongate). Nov. 9, 2010, “ Six ways the internet will save civilization,”  
 http://www.wired.co.uk/magazine/archive/2010/12/start/apocalypse-no]

Many great civilisations have fallen, leaving nothing but cracked ruins and scattered genetics. Usually this results from: natural disasters, resource depletion, economic meltdown, disease, poor information flow and corruption. But we’re luckier than our predecessors because we command a technology that no one else possessed: a rapid communication network that finds its highest expression in the internet. I propose that there are six ways in which the net has vastly reduced the threat of societal collapse. Epidemics can be deflected by telepresence One of our more dire prospects for collapse is an infectious-disease epidemic. Viral and bacterial epidemics precipitated the fall of the Golden Age of Athens, the Roman Empire and most of the empires of the Native Americans. The internet can be our key to survival because the ability to work telepresently can inhibit microbial transmission by reducing human-to-human contact. In the face of an otherwise devastating epidemic, businesses can keep supply chains running with the maximum number of employees working from home. This can reduce host density below the tipping point required for an epidemic. If we are well prepared when an epidemic arrives, we can fluidly shift into a self-quarantined society in which microbes fail due to host scarcity. Whatever the social ills of isolation, they are worse for the microbes than for us. The internet will predict natural disasters We are witnessing the downfall of slow central control in the media: news stories are increasingly becoming user-generated nets of up-to-the-minute information. During the recent California wildfires, locals went to the TV stations to learn whether their neighbourhoods were in danger. But the news stations appeared most concerned with the fate of celebrity mansions, so Californians changed their tack: they uploaded geotagged mobile-phone pictures, updated Facebook statuses and tweeted. The balance tipped: the internet carried news about the fire more quickly and accurately than any news station could. In this grass-roots, decentralised scheme, there were embedded reporters on every block, and the news shockwave kept ahead of the fire. This head start could provide the extra hours that save us. If the Pompeiians had had the internet in 79AD, they could have easily marched 10km to safety, well ahead of the pyroclastic flow from Mount Vesuvius. If the Indian Ocean had the Pacific’s networked tsunami-warning system, South-East Asia would look quite different today. Discoveries are retained and shared Historically, critical information has required constant rediscovery. Collections of learning -- from the library at Alexandria to the entire Minoan civilisation -- have fallen to the bonfires of invaders or the wrecking ball of natural disaster. Knowledge is hard won but easily lost. And information that survives often does not spread. Consider smallpox inoculation: this was under way in India, China and Africa centuries before it made its way to Europe. By the time the idea reached North America, native civilisations who needed it had already collapsed. The net solved the problem. New discoveries catch on immediately; information spreads widely. In this way, societies can optimally ratchet up, using the latest bricks of knowledge in their fortification against risk. Tyranny is mitigated Censorship of ideas was a familiar spectre in the last century, with state-approved news outlets ruling the press, airwaves and copying machines in the USSR, Romania, Cuba, China, Iraq and elsewhere. In many cases, such as Lysenko’s agricultural despotism in the USSR, it directly contributed to the collapse of the nation. Historically, a more successful strategy has been to confront free speech with free speech -- and the internet allows this in a natural way. It democratises the flow of information by offering access to the newspapers of the world, the photographers of every nation, the bloggers of every political stripe. Some posts are full of doctoring and dishonesty whereas others strive for independence and impartiality -- but all are available to us to sift through. Given the attempts by some governments to build firewalls, it’s clear that this benefit of the net requires constant vigilance. Human capital is vastly increased Crowdsourcing brings people together to solve problems. Yet far fewer than one per cent of the world’s population is involved. We need expand human capital. Most of the world not have access to the education afforded a small minority. For every Albert Einstein, Yo-Yo Ma or Barack Obama who has educational opportunities, uncountable others do not. This squandering of talent translates into reduced economic output and a smaller pool of problem solvers. The net opens the gates education to anyone with a computer. A motivated teen anywhere on the planet can walk through the world’s knowledge -- from the webs of Wikipedia to the curriculum of MIT’s OpenCourseWare. The new human capital will serve us well when we confront existential threats we’ve never imagined before. Energy expenditure is reduced Societal collapse can often be understood in terms of an energy budget: when energy spend outweighs energy return, collapse ensues. This has taken the form of deforestation or soil erosion; currently, the worry involves fossil-fuel depletion. The internet addresses the energy problem with a natural ease. Consider the massive energy savings inherent in the shift from paper to electrons -- as seen in the transition from the post to email. Ecommerce reduces the need to drive long distances to purchase products. Delivery trucks are more eco-friendly than individuals driving around, not least because of tight packaging and optimisation algorithms for driving routes. Of course, there are energy costs to the banks of computers that underpin the internet -- but these costs are less than the wood, coal and oil that would be expended for the same quantity of information flow. The tangle of events that triggers societal collapse can be complex, and there are several threats the net does not address. But vast, networked communication can be an antidote to several of the most deadly diseases threatening civilisation. The next time your coworker laments internet addiction, the banality of tweeting or the decline of face-to-face conversation, you may want to suggest that the net may just be the technology that saves us.