# 2AC

## 2ac t

#### We meet – contextual ev

Guiora, 12 [Amos, Professor of Law, SJ Quinney College of Law, University of Utah, author of numerous books dealing with military law and national security including Legitimate Target: A Criteria-Based Approach to Targeted Killing, “Drone Policy: A Proposal Moving Forward,” <http://jurist.org/forum/2013/03/amos-guiora-drone-policy.php>]

To re-phrase, this strict scrutiny test seeks to strike a balance by enabling the state to act sooner but subjecting that action to significant restrictions. This paradigm would be predicated on narrow definitions of imminence and legitimate targets. Rather than enabling the consequences of the DOJ memo, the strict scrutiny test would ensure implementation of person-specific operational counterterrorism. That is the essence of targeted killing conducted in accordance with the rule of law and morality in armed conflict.

#### 2. Counter interpretation:

#### A restriction on war powers authority limits Presidential discretion

Jules Lobel 8, Professor of Law at the University of Pittsburgh  Law School, President of the Center for Constitutional Rights, represented members of Congress challenging assertions of Executive power to unilaterally initiate warfare, “Conflicts Between the Commander in Chief and Congress: Concurrent Power  over the Conduct of War,” Ohio State Law Journal, Vol 69, p 391, 2008, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf

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

#### Restrict doesn’t mean prohibit

**Coffey, 82** - US Circuit Judge, dissenting (VICTOR D. QUILICI, ROBERT STENGL, et al., GEORGE L. REICHERT, and ROBERT E. METLER, Plaintiffs-Appellants, v. VILLAGE OF MORTON GROVE, et al., Defendants-Appellees Nos. 82-1045, 82-1076, 82-1132 UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT 695 F.2d 261; 1982 U.S. App. LEXIS 23560, lexis)

Pursuant to section 83, a municipality can enact an ordinance reasonably restricting or confining the use and possession of firearms. A municipality can also require registration of firearm ownership. What the legislature has authorized is limited regulation of firearm possession by local units of government, but not prohibition. Section 83 does not allow a municipality such as Morton Grove to categorically prohibit handgun possession. [\*\*35] To limit or restrict involves a circumscription which falls far short of an absolute prohibition.

"The words 'prohibit' and 'restrict' are not synonymous. They are not alike in their meaning in their ordinary use . . . . 'To restrict is to restrain within bounds; to limit; to confine and does not mean to destroy or prohibit.'"

#### 3. We meet our counter interpretation, drone courts are legal restrictions on the targeted killing activities of the president

#### Prefer our interpretation

#### Topic Education— drone courts are heart of topic in targeted killing, it is the largest policy proposal for resolving presidential authority

#### Predictable ground—best to include largest cases in the literature because they are a locus for negative and affirmative research and preparation

#### 5. Prefer reasonability over competing interpretations if the aff doesn’t make debate impossible than you can’t vote against us

## 2ac detention shift

#### Drones are inevitable

Henning, 2-20-12

[Job, NYT, Embracing the Drone, http://www.nytimes.com/2012/02/21/opinion/embracing-the-drone.html?pagewanted=all&\_r=0] /Wyo-MB

Drones — more formally armed Unmanned Aerial Vehicles, or UAVs — are “in.” Since a Predator strike in Yemen against Al Qaeda in November 2002 — the first known use of a drone attack outside a theater of war — the United States has made extensive use of drones. There were nearly four times as many drone strikes in Pakistan during the first two years of the Obama administration as there were during the entire Bush administration.¶ The United States is now conducting drone strikes in Somalia as well, and their use is expected to dramatically increase in Afghanistan over the next five years as NATO troops withdraw from there.¶ Armed drones are both inevitable, since they allow the fusing of a reconnaissance platform with a weapons system, and, in many respects, highly desirable. They can loiter, observe and strike, with a far more precise application of force. They eliminate risk to pilots and sharply reduce the financial costs of projecting power. Moreover, polls show that a vast majority of Americans support the use of drones.¶

Drones will shift to raids—proven by our shift in Libya and somalia

**No Russian aggression – strong demographic and structural changes**

**Popescu ’12** (European Council on Foreign Relations research fellow, Nicu, February 3, 2012, European Council on Foreign Relations, "Russia’s liberal-nationalist cocktail” blogs.euobserver.com/popescu/2012/02/06/russias-liberal-nationalist-cocktail/, accessed 2-11-12, atl)

One of Vladimir Putin’s recent pre-election articles dedicated to the ‘national question’ largely subscribes to this view, even though he laments the ‘inadequate, aggressive, defiant and disrespectful’ behaviour of some migrants. But such imperialist nationalism was based on a strong confidence in Russia’s state capacity, power of territorial expansion and cultural attraction. However, the growing realisation of Russia’s structural problems – from demographic crisis to bad governance under Putin, topped by the economic crisis – has led to some structural shifts in Russian nationalism. An increasingly obvious trend in the last few years is for the ‘old’ expansionist nationalism to rapidly lose ground to a new breed of isolationist, introvert and defensive nationalism that is primarily anti-immigrant and often anti-imperial. Such nationalism is more concerned with maintaining Russia’s ‘Russianness’ than with territorial expansion. The key source of this defensive nationalism is the toxic mix of high immigration into Russia coupled with a demographic crisis. With over 12 million migrants, Russia is the second biggest recipient of inward migration in the world after the US, though as a share of migrants per total population Russia only ranks 55th in the world. From the nationalists’ perspective Russia’s demographic crisis is two-fold. One aspect is the decline of Russia’s population, with the threat of further decline due to the higher numbers of old than young. But from the nationalists’ perspective, graver still is the fact that the fall in numbers of ethnic Russians due to emigration, high mortality and low birth rates is faster than the overall demographic decline, the pace of which has indeed slowed, partly due to immigration (primarily from Central Asia and the south Caucasus) and higher population growth among some Russian minorities, particularly in the north Caucasus. So the fear is not only about Russia’s decreasing population, but even more so about the fact that Russia is becoming less ethnically Russian. The instinctive response to fears of relative demographic decline of ethnic Russians is a growing ‘fortress Russia’ syndrome. At its core, Russia’s defensive nationalism rests on a much-diminished belief in Russia’s power to expand and assimilate its periphery, particularly the culturally distant Muslim populations of Central Asia and the Caucasus. The nationalist schism is clearly visible at nationalist marches parts of the crowd shout ‘there is no Russia without Caucasus’ whereas other parts shout ‘Stop feeding the Caucasus’ and ‘Migrants today, Occupiers tomorrow’.

**Georgia war empirically denies their impact**

## 2AC Anthro

#### First, Our Interpretation: The resolution asks the question of desirability of USFG action. The Role of ballot is to say yes or no to the action and outcomes of the plan.

#### Second, is reasons to prefer:

#### A. Aff Choice, any other framework or role of the ballot moots 9 minutes of the 1ac

#### B. It is predictable, the resolution demands USFG action

#### C. It is fair, Weigh Aff Impacts and the method of the Affirmative versus the Kritik, it’s the only way to test competition and determine the desirability of one strategy over another

#### Considerations for any ethical system for animals presuppose a human benchmark: Two impacts 1.) human centric value is inevitable and they don’t solve or their value creates a method of asserting value without warrants turns the k.

Hayward 97

[PhD, Department of Politics at Edinburgh University, “Anthropocentrism: a Misunderstood Problem”, Environmental Values, p. asp//wyo-tjc]

But if the project of overcoming speciesism can be pursued with some expectation of success, this is not the case with the overcoming of anthropocentrism. What makes anthropocentrism unavoidable is a limitation of a quite different sort, one which cannot be overcome even in principle because it involves a non-contingent limitation on moral thinking as such. While overcoming speciesism involves a commitment to the pursuit of knowledge of relevant similarities and differences between humans and other species, the criteria of relevance will always have an ineliminable element of anthropocentrism about them. Speciesism is the arbitrary refusal to extend moral consideration to relevantly similar cases; the ineliminable element of anthropocentrism is marked by the impossibility of giving meaningful moral consideration to cases which bear no similarity to any aspect of human cases. The emphasis is on the ‘meaningful’ here: for in the abstract one could of course declare that some feature of the nonhuman world was morally valuable, despite meeting no determinate criterion of value already recognised by any human, but because the new value is completely unrelated to any existing value it will remain radically indeterminate as a guide to action. If the ultimate point of an ethic is to yield a determinate guide to human action, then, the human reference is ineliminable even when extending moral concern to nonhumans. So my argument is that one cannot know if any judgement is speciesist if one has no benchmark against which to test arbitrariness; and, more specifically, if we are concerned to avoid speciesism of humans then one must have standards of comparison between them and others. Thus features of humans remain the benchmark. As long as the valuer is a human, the very selection of criteria of value will be limited by this fact. It is this fact which precludes the possibility of a radically nonanthropocentric value scheme, if by that is meant the adoption of a set of values which are supposed to be completely unrelated to any existing human values. Any attempt to construct a radically non-anthropocentric value scheme is liable not only to be arbitrary – because founded on no certain knowledge – but also to be more insidiously anthropocentric in projecting certain values, which as a matter of fact are selected by a human, onto nonhuman beings without certain warrant for doing so. This, of course, is the error of anthropomorphism, and will inevitably, I believe, be committed in any attempt to expunge anthropocentrism altogether.

#### (\_\_) Doesn’t take a stance on war powers means that aff acts as an impact turn to the k.

#### (\_\_) They don’t have a agent to the alt- this is bad for debate- skews aff ground, can’t gain offense based on the actor. Kills education- don’t learn about how to best engage feminism and fight the system. Voter for fairness and Education.

#### Even Limited Nuclear War leads to Nuclear Winter- would Last for a Decade

Roback 10

[Alan Robock, Department of Environmental Sciences, Rutgers University “Nuclear winter is a real and present danger” 1 9 M AY 2 0 1 1 | VO L 4 7 3 | N AT U R E | 2 7 5, wyo-bb]

Many of those who do accept the nuclear winter concept think that the scenario applies only to a mass conflict, on a scale no longer conceivable in the modern world. This is also false. **A ‘small’ nuclear war between India and Pakistan, with each using 50 Hiroshima-size bombs (far less than 1% of the current arsenal), if dropped on megacity targets in each country would produce climate change unprecedented in recorded human history**5. **Five million** **tonnes of black carbon smoke** would be **emitted into the upper troposphere from** the **burning cities**, and **then** be **lofted** **into the stratosphere by the heat of the Sun**. **Temperatures would be lower than** during **the** ‘**Little Ice Age’** (1400–1850), during **which famine killed millions. For several years, growing seasons would be shortened by weeks in the mid-latitudes** (see ‘A decade of cooling).

#### Nuclear Winter is bad for animals- Sets Off Extinction Cascade

Greene et al ‘85

[Owen, Expert on Security issues, Director of Bradford U. Centre for Int’l Coop and Security, Arms Consultant to UN and EU, Ian Percival, Phys Prof, & Irene Ridge, Biologist, *Nuclear Winter: The Evidence and the Risks,* New York: Polity Press, 1985, 122//uwyo-ajl]

Apart from food chains there are many other essential links between animals and plants - pollination, for example. Bees would starve if there were no flowers to provide pollen and nectar. So would the adults of other pollinators such as butterflies, small beetles and flies and they would almost certainly be unable to lay eggs. If populations of these insects declined (and most do not have such powers of rapid reproduction as' aphids and blowflies), then the first effect felt by human survivors would be a shortage of fruit and some vegetables. Nearly all the cultivated apples and plums, not to mention numerous wild fruits, require cross pollination by insects;beehives are commonly placed in orchards at a density of about one to the acre. In the extreme case that pollinating insects became extinct over large areas, insect-pollinated plants would be unable to set seed and they too might become extinct in the longer term plant-pollinator relationships can be wonderfully intriJcate, with flowers having precise adaptations that allow pollination by just one species of insect, which in turn is totally dependent on that plant for survival. There are numerous similar examples where species are interdependent and extinction for one spells disaster for the other. In the first report of the biological effects of nuclear winter cascades of extinctions' were predicted extending over many years,14 and all the available evidence seems to support this conclusion

Their ethical framework disavows its own anthropocentric lines of reference—this insidiously replicates value systems that reproduce the primacy of the human through unrecognized prejudices

Hayward 97

[PhD, Department of Politics at Edinburgh University, “Anthropocentrism: a Misunderstood Problem”, Environmental Values, p. asp//wyo-tjc]

A basic reason why criticisms of anthropocentrism are equivocal is that it is not self-evident what exactly it means to be human-centred: where or what is the ‘centre’? The idea of anthropocentrism is typically understood as analogous to egocentrism (Goodpaster, 1979): but just as the latter is anything but unproblematic, if it implies a simple, unitary, centred ego, so too is anthropocentrism – for the human species is all too at odds with itself. If the project of bringing humanity to peace with itself, of constituting itself as a body which is sufficiently unified to be considered ‘centred’ is anthropocentric, though, it is anthropocentric in a sense I have suggested should be applauded rather than condemned. To be sure, what attitude such a body has towards non humans cannot be predicted before the event, but there is good reason to think that such a unified and peaceful body is more likely to be considerate – or at least guided by a far-sighted and ecologically enlightened conception of its selfinterest – than one which is riven by internal strife. Posing the question of ‘where and what is the centre’ not only allows this constructive perspective on anthropocentrism, it also reveals the indeterminacy of alleged alternatives to it. One alternative often referred to in the literature is ‘biocentrism’.6 However, if biocentrism means giving moral consideration to all living beings, it is quite consistent with giving moral consideration to humans; biocentrism in this sense is actually presupposed by my own rejection of human chauvinism and speciesism, and thus appears to be a complement of rather than alternative to anthropocentrism. Another perspective, however, which purports to offer an alternative to either anthropocentrism or biocentrism, is ecocentrism.7 For ecocentrism, not only living beings, but whole ecosystems, including the abiotic parts of nature, are deemed worthy of moral consideration too. The ecocentric claim is particularly significant in the present context in that it purports to stake out a role for the continued use of anthropocentrism as a term of criticism. From the perspective of ecocentrism, the critique of speciesism would not be adequate to capture all aspects of environmental concern, for while it serves to counter the arbitrary treatment of species and their members, ecocentrists would nevertheless argue that other sorts of entity, including abiotic parts of nature, are also worthy of concern. It is here, they claim, that a distinction between human-centredness and eco-centredness reveals its force: for in disregarding ecosystemic relations humans may not be disregarding the interests of any particular species, but they are nevertheless doing ecological harm. In reply to this claim I would argue that no harms can actually be identified without reference to species-interests of one sort or another. This is to return to the question of the lack of any determinate ‘eco-centre’, that is to say, to the problem of identifying the loci of ecological harms. One ecocentric response might be that whole ecosystemic balances, which can be upset by human interventions, should be preserved. But this response gives rise to a host of further questions, concerning, for instance: which balances should be preserved and why; whether unaided nature never ‘upsets’ ecological balances, and some human activities do not sometimes ‘improve’ them; whether humans should, per impossibile, seek simply not to influence ecosystems at all. In short, it leaves open the question of what criteria there are, for telling whether one balance is preferable to another, which do not refer back to anthropocentric or biocentric considerations. In fact, to my knowledge, the best, if not only, reason for preserving ecosystemic relations is precisely that they constitute the ‘life-support system’ for humans and other living species. Still, another ecocentric response might be to claim there is independent reason to take as morally considerable abiotic parts of nature – such as rocks, rivers, and mountains, for instance. But while one clear reason to value these is that they provide habitats for various living species, it is not so clear what reason there is to insist on their continued undisturbed existence for its own sake.8 In fact, arguments in favour of these parts of the natural world almost invariably appeal to spiritual or aesthetic reasons, and while these may be good reasons, they cannot, it seems to me, be disentangled from specifically human-centred concerns – namely, those of spirituality or beauty. In short, it seems to me that the attempt to pursue a radically ecocentric line is more likely to reintroduce objectionably anthropocentric considerations – such as unrecognised prejudices about what is beautiful or spiritual – than a position that recognizes, on the one hand, that aspects of anthropocentrism are unavoidable, but, on the other, that speciesism is not. My claim, then, is that ecocentrism is radically indeterminate and therefore provides no basis from which to launch an all-encompassing critique of anthropocentrism.

### 2AC Politics

#### Congress wont allow sanctions relief

Howard LaFranchi, Staff writer “Iran nuclear talks: Will 'bad cop' Congress approve a deal?” 10/17/13

Yet despite the administration’s assurances of a common objective with Congress and key allies – no Iranian bomb – disagreements over how to get there are likely to surface very soon, especially over sanctions and any proposals for reducing them as part of any deal with Iran.¶ If anything Congress – echoing Mr. Netanyahu’s tough stance, which rejects any sanctions relief until after Iran first takes verifiable steps to dismantle its nuclear program – is demanding additional sanctions, not envisioning a lightening of the load.¶ “No one should be impressed by what Iran appears to have brought to the table in Geneva,” Sen. Marco Rubio (R) of Florida said in a statement Wednesday introducing a new sanctions resolution.¶ Senator Rubio’s view that “now is not the time to suspend sanctions but to increase them on the Iranian regime” reflects the sentiment of a letter Sens. Robert Menendez, Democrat of New Jersey, and Lindsey Graham, Republican of South Carolina, sent to President Obama before this week’s talks in which they called for “the maintenance and toughening of sanctions” as part of the US strategy for addressing Iran’s nuclear ambitions.¶ “Iran is not a friend whose word can be taken as a promise,” the two senators said.¶ Those hawkish views could spell trouble for the administration’s negotiators in the Iran talks by placing a lock on any flexibility for meeting any Iranian confidence-building steps – agreeing to significantly reduce the number of centrifuges it has spinning uranium as part of its enrichment program, for example – with reciprocal sanctions relief. ¶ Easing of the more onerous economic sanctions Iran wants to see reduced or removed would take congressional action. But there is little indication that the administration and Congress see eye-to-eye on the steps Iran would have to take to merit any scaling back of sanctions.¶ Senator Menendez has said Iran must abandon all uranium enrichment activity, for example – a position held by Netanyahu – while the administration has suggested Iran has a right to a peaceful civilian nuclear program. That position suggests the US might accept low-level enrichment activity.¶ Nuclear power generation requires uranium enriched to less than 5 percent purity. But Iran has created a stockpile of 20-percent-enriched uranium – a level just a few technical steps shy of bomb-grade uranium –saying it needs the higher grade for a medical research facility.

They don’t read a link

#### 2nd, Link turn drone courts popular in congress—particularly with Feinstein and King

Hosenball, 2-8-2013

[Mark, Reuters news service, Support grows for U.S. "drone court" to review lethal strikes, http://www.reuters.com/article/2013/02/09/us-usa-drones-idUSBRE91800B20130209] /Wyo-MB

During a fresh round of debate this week over President Barack Obama's claim that he can unilaterally order lethal strikes by unmanned aircraft against U.S. citizens, some lawmakers proposed a middle ground: a special federal "drone court" that would approve suspected militants for targeting.¶ While the idea of a judicial review of such operations may be gaining political currency, multiple U.S. officials said on Friday that imminent action by the U.S. Congress or the White House to create one is unlikely. The idea is being actively considered, however, according to a White House official.¶ At Thursday's confirmation hearing for CIA director nominee John Brennan, senators discussed establishing a secret court or tribunal to rule on the validity of cases that U.S. intelligence agencies draw up for killing suspected militants using drones.¶ The court could be modeled on an existing court which examines applications for electronic eavesdropping on suspected spies or terrorists.¶ Senator Dianne Feinstein, Democratic chairwoman of the Senate Intelligence Committee, said Thursday that she planned to "review proposals for ... legislation to ensure that drone strikes are carried out in a manner consistent with our values, and the proposal to create an analogue of the Foreign Intelligence Surveillance Court to review the conduct of such strikes."¶ Senator Angus King, a Maine independent, said during the hearing that he envisioned a scenario in which executive branch officials would go before a drone court "in a confidential and top-secret way, make the case that this American citizen is an enemy combatant, and at least that would be ... some check on the activities of the executive."

#### Feinstein key to agenda- can wrangle in both parties

Tate 13

(Curits, Mcclatchy Newspapers, “Sen. Dianne Feinstein presses her decades-long crusade on guns,” March 10, 2013, <http://www.mcclatchydc.com/2013/03/10/185261/sen-dianne-feinstein-presses-her.html#.Uhp4YpKThSQ>) /wyo-mm

Feinstein is a veteran lawmaker who knows how to work behind the scenes and across the aisle, which is how much of the real business of Capitol Hill gets done. “She’s developed a chain of colleagues she can call on,” Kennedy said. “She knows very well how to use her position on other committees.” Feinstein is an influential member. She ranks 14th in Senate seniority. Besides her seat on the Judiciary Committee, she serves on the powerful Appropriations Committee and chairs the Intelligence Committee. Her political roots took hold at a time before bitter partisanship began to color every debate, and even relationships on Capitol Hill. One of her closest friends has been Kay Bailey Hutchison, a Texas Republican who left the Senate in January. And Feinstein has warm relations with many more lawmakers, in an era fraught with political polarization. Sen. Jeff Sessions, R-Ala., a staunch conservative who serves alongside the liberal-leaning Feinstein on the Judiciary Committee, said that while they disagreed on many issues, including the assault weapons ban, he admired her ability to forge compromise. “I’d say on the 16 years I’ve been on it, she’s been one of the more effective Democratic senators at reaching across the aisle on key issues,” he said. “She battles for what she believes in, but she’s also very able at finding common ground and solving problems.”

Strikes don’t go nuclear.

Plesch and Butcher 07 Dr Dan Plesch, Director of the School of Oriental and African Studies'Centre for International Studies and Diplomacy, and Martin Butcher, international consultant on security politics, September 2007, Considering a war with Iran: A discussion paper on WMD in the Middle East, http://www.rawstory.com/images/other/IranStudy082807a.pdf

The US has strategic forces prepared to launch massive strikes on Iran with hours of the order being given. Although there is clear evidence that nuclear weapons use is being given serious political consideration, actual use is **unlikely** given the lack of effectiveness of nuclear weapons against concealed and buried targets and the negative political consequences of such use. The aim of the new Triad and the Global Strike capability developed under the Bush administration is stated to be making nuclear weapons use **less likely**.

### 2ac executive reform

doesn’t solve heg

doesn’t solve prolif

#### And, Executive reform and review fails—not a neutral decision maker, secrecy and speed undermine effective decision making—counterplan undermines separation of powers

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

The argument put forth here, therefore, is that in light of the protections the Constitution¶ affords U.S. citizens, there must be a degree of inter-branch process when such individuals are targeted by the government to ensure that (1) these individuals truly pose a direct and imminent threat to the United States and (2) targeting is truly the last resort.¶ The preceding case law suggests that domestic legal protections for U.S. citizens necessitate a higher procedural threshold.102 Justice O’Connor acknowledged the danger inherent in exclusively intra-branch process in Hamdi when she asserted that the Executive is not a neutral decision-maker as the “even purportedly fair adjudicators are disqualified by their interest in the controversy.”103 In rejecting the government’s argument that a “separation of powers” analysis mandates a heavily circumscribed role for the courts in these circumstances, Justice O’Connor concluded that in times of conflict, the Constitution “most assuredly envisions a role¶ for all three branches when individual liberties are at stake.”104 Applying this reasoning to the entirely intra-executive process currently being afforded to American citizens like al-Awlaki would suggest that in the realm of targeted killing, where the deprivation is one’s life, the absence of any “neutral decision-maker” outside the executive branch is a clear violation of due process guaranteed by the Constitution. On a policy level, the danger of intra-executive process is similarly alarming. As Judge James Baker, in describing the nature of covert actions put it:¶ Because this process is internal to the executive branch, it is subject to executive-branch exception or amendment, with general or case-specific approval by the president. This is risky because in this area, as in other areas of national security practice, the twin necessities of secrecy and speed may pull as they do against the competing interests of deliberate review, dissent, and accountable decision-making.105

#### 2nd, Perm do both—Shields the Link to politics—Congress purposefully doesn’t act on legislation or waits for executive action so that they can blame the president

Buchanan 2013

[Neil Buchanan, Law Professor, February 21, 2013, Spending Priorities, the Separation of Powers, and the Rule of Law, http://www.dorfonlaw.org/2013/02/spending-priorities-separation-of.html, uwyo//amp]

The debt ceiling is keeping us busy, here at Dorf on Law. Later today, both Professor Dorf and I will be speaking at Columbia Law School, at the invitation of the Law Review editors who worked on our two articles in 2012. Over the weekend, we also finalized a new article, which Professor Dorf briefly described here yesterday. In it, we extend our ongoing analysis of the constitutional issues surrounding the debt ceiling. The short-hand versions of the two main sections of the article are: (1) Yes, there really is a trilemma, and (2) No, the debt ceiling is still not binding, even if everyone knows that they are creating a trilemma when they pass the spending and taxing laws. The latter point is important because already-existing trilemmas (such as the one that Congress and the President faced last month, before the Republicans capitulated by passing their "Debt Ceiling Amnesia Act") do not exist when there are no appropriated funds for the President to spend. (Strictly speaking, there would be a trilemma if even the minimal level of emergency spending required by law during a government shutdown could only be financed by borrowing in excess of the debt ceiling. But given that most of the tax code is enacted on a continuing basis -- that is, unlike spending, tax provisions generally do not expire on a particular date -- there will generally be enough money coming in to finance emergency operations without having to borrow.) Every spending/taxing agreement, therefore, potentially necessitates issuing enough net new debt to require an increase in the debt ceiling. When that happens, one could invoke something like the "last in time" rule, but we conclude that the problem should not be resolved by relying upon a legal canon that is generally used for rationalizing inconsistent laws. Rather, the more fundamental question is how to preserve the separation of powers. As we point out, Congress might actually want to give away its legislative powers, thus putting the political blame on the President for unpopular cuts (a point that Professor Scott Bauries at the University of Kentucky College of Law calls "learned legislative helplessness") -- but their desire to pass the buck is actually all the more reason not to let them do so. With great power comes great responsibility.

#### 3rd, counterplan links to politics

Schier 9

[Steven, Professor of Poliitcal Science at Carleton,"Understanding the Obama Presidency," The Forum: Vol. 7: Iss. 1, Berkely Electronic Press, http://www.bepress.com/forum/vol7/iss1/art10]

In additional to formal powers, a president’s informal power is situationally derived and highly variable. Informal power is a function of the “political capital” presidents amass and deplete as they operate in office. Paul Light defines several components of political capital: party support of the president in Congress, public approval of the presidential conduct of his job, the President’s electoral margin and patronage appointments (Light 1983, 15). Richard Neustadt’s concept of a president’s “professional reputation” likewise figures into his political capital. Neustadt defines this as the “impressions in the Washington community about the skill and will with which he puts [his formal powers] to use” (Neustadt 1990, 185). In the wake of 9/11, George W. Bush’s political capital surged, and both the public and Washington elites granted him a broad ability to prosecute the war on terror. By the later stages of Bush’s troubled second term, beset by a lengthy and unpopular occupation of Iraq and an aggressive Democratic Congress, he found that his political capital had shrunk. Obama’s informal powers will prove variable, not stable, as is always the case for presidents. Nevertheless, he entered office with a formidable store of political capital. His solid electoral victory means he initially will receive high public support and strong backing from fellow Congressional partisans, a combination that will allow him much leeway in his presidential appointments and with his policy agenda. Obama probably enjoys the prospect of a happier honeymoon during his first year than did George W. Bush, who entered office amidst continuing controversy over the 2000 election outcome. Presidents usually employ power to disrupt the political order they inherit in order to reshape it according to their own agendas. Stephen Skowronek argues that “presidents disrupt systems, reshape political landscapes, and pass to successors leadership challenges that are different from the ones just faced” (Skowronek 1997, 6). Given their limited time in office and the hostile political alignments often present in Washington policymaking networks and among the electorate, presidents must force political change if they are to enact their agendas. In recent decades, Washington power structures have become more entrenched and elaborate (Drucker 1995) while presidential powers – through increased use of executive orders and legislative delegation (Howell 2003) –have also grown. The presidency has more powers in the early 21st century but also faces more entrenched coalitions of interests, lawmakers, and bureaucrats whose agendas often differ from that of the president. This is an invitation for an energetic president – and that seems to describe Barack Obama – to engage in major ongoing battles to impose his preferences.

#### Political power is not zero sum—no trade off

Read, 3-1-12

[James, College of Saint Benedict/Saint John's University, jread@csbsju.edu, Is Power Zero-Sum or Variable-Sum? Old Arguments and New Beginnings, Political Science Faculty Publications.Paper 4, http://digitalcommons.csbsju.edu/cgi/viewcontent.cgi?article=1004&context=polsci\_pubs] /Wyo-MB

The specific question with which this essay is concerned is whether power – and ¶ especially political power – should be regarded as inherently zero-sum, one‟s agent‟s gain ¶ entailing by definition an equivalent loss for another or others; or variable-sum, whereby it is ¶ possible to have mutual gains of power not offset by equivalent losses somewhere else (positivesum), and mutual losses of power not offset by equivalent gains somewhere else (negative-sum). ¶ This essay is part of a larger book-length project that will systematically examine zero-sum and ¶ variable-sum understandings of power; and argue that a variable-sum understanding of power is ¶ at least as fruitful in describing actual power relations – including relations characterized by ¶ significant conflict – as the zero-sum view (see Read 2009a; 2010).

#### No Impact—Fast and flexible doesn’t mean effective, unilateral action doesn’t solve disad impacts

O’Neil 11

(Robert, Houston Law Review, “The Price of Purity: Weakening the Executive Model of the United States’ Counter-Terror Legal System,” Winter 2011, Lexis//wyo-mm)

Those opposed to enacting anti-terror policy through the regular bicameral process criticize the legislative method as being ill-suited for responding to threats to national security because of the time it requires before any plan of action may be [\*1446] implemented. n160 Unilateral executive action certainly permits greater speed in enacting policy decisions and may be preferable in urgent situations that call for swift action. n161 Under the pure form of the executive model, the executive is theoretically limited only by the time it takes him or her to divine the strategy, policy, or act. In contrast, the weak form of the executive model's preference for congressionally enacted counter-terror policy does tend to slow the pace at which new strategies are put in place. Fast action, however, even in exigent circumstances, does not necessarily equate effective action. n162 Feeling compelled to react immediately in a crisis situation can lead the executive to act impulsively, without considering potentially more effective alternatives. n163 For example, the violent interrogation sessions that followed the sudden executively authorized departure from longstanding international rules regarding the treatment of detainees caused great domestic and international controversy during the Bush Administration, and compromised the United States' credibility abroad. n164

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#### Plans review process is key to check operation errors from the president—solves terrorism

Guiora, 2012ure strikes

[Amos, Professor of Law, S.J. Quinney College of Law, University of Utah, Targeted killing: when proportionality gets all out of proportion, Case Western Reserve Journal of International Law. 45.1-2 (Fall 2012): p235., Academic onefile] /Wyo-MB

The unitary executive theory aggressively articulated, and implemented, by the Bush Administration has been adopted in toto by the Obama Administration. While the executive clearly prefers to operate in a vacuum, the question whether that most effectively ensures effective operational counterterrorism is an open question. The advantage of institutionalized, process-based input into executive action prior to decision implementation is worthy of discussion in operational counterterrorism.¶ The solution to this search for an actionable guideline is the strict scrutiny standard. What is strict scrutiny, and how is it to be implemented in the context of operational counterterrorism? Why is there a need, if at all, for an additional standard articulating self-defense? The strict scrutiny standard would enable operational engagement of a non-state actor predicated on intelligence information that would meet admissibility standards akin to a court of law. The strict scrutiny test seeks to strike a balance enabling the state to act sooner but subject to significant restrictions.¶ The ability to act sooner is limited, however, by the requirement that intelligence information must be reliable, viable, valid, and corroborated. The strict scrutiny standard proposes that for states to act as early as possible in order to prevent a possible terrorist attack the information must meet admissibility standards similar to the rules of evidence. The intelligence must be reliable, material, and probative.¶ The proposal is predicated on the understanding that while states need to engage in operational counterterrorism, mistakes regarding the correct interpretation and analysis of intelligence information can lead to tragic mistakes. Adopting admissibility standards akin to the criminal law minimizes operational error.¶ Rather than relying on the executive branch making decisions in a "closed world" devoid of oversight and review, the intelligence information justifying the proposed action must be submitted to a court that would ascertain the information's admissibility. The discussion before the court would necessarily be conducted ex parte; however, the process of preparing and submitting available intelligence information to a court would significantly contribute to minimizing operational error that otherwise would occur.¶ The logistics of this proposal are far less daunting than they might seem--the court before which the executive would submit the evidence is the FISA Court. Presently, FISA Court judges weigh the reliability of intelligence information in determining whether to grant government ex parte requests for wire-tapping warrants. Under this proposal, judicial approval is necessary prior to undertaking a counterterrorism operation predicated solely on intelligence information. The standard the court would adopt in determining the information's reliability is the same applied in the traditional criminal law paradigm. The intelligence must be reliable, material, and probative.¶ While the model is different--a defense attorney cannot question state witnesses--the court will assume a dual role. In this dual role capacity the court will cross-examine the representative of the intelligence community and subsequently rule as to the information's admissibility. While some may suggest that the FISA court is largely an exercise in "rubber-stamping," the importance of the proposal is in requiring the government to present the available information to an independent judiciary as a precursor to engaging in operational counterterrorism.

**No risk of Russian aggression**

**Ferguson,** Harvard economic historian**,** 2/23**/9**

[Niall, interview with Heather Scoffield, Globe and Mail, "There will be blood," <http://www.theglobeandmail.com/servlet/story/RTGAM.20090223.wferguson0223/BNStory/crashandrecovery/home/?pageRequested=all> [accessed 3/26/9]

The question is whether the general destabilization, the return of, if you like, political risk, ultimately leads to something really big in the realm of geopolitics. That seems a less certain outcome. We've already talked about why China and the United States are in an embrace they don't dare end. If Russia is looking for trouble the way Mr. Putin seems to be, I still have some doubt as to whether it can really make this trouble, because of the weakness of the Russian economy. It's hard to imagine Russia invading Ukraine without weakening its economic plight. They're desperately trying to prevent the ruble from falling off a cliff. They're spending all their reserves to prop it up. It's hardly going to help if they do another Georgia.”