### 2AC – Link – Countries Modeling U.S.

#### Current U.S. drone precedent encourages targeted killing that causes international tension

Roberts 13 (Kristin, When the Whole World Has Drones, National Journal, 21 March 2013, http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321, da 8-1-13) PC

That’s true, at least today. It’s also irrelevant. Others who employ drones are likely to carry a different agenda, one more concerned with employing a relatively inexpensive and ruthlessly efficient tool to dispatch an enemy close at hand.¶ “It would be very difficult for them to create the global-strike architecture we have, to have a control cell in Nevada flying a plane over Afghanistan. The reality is that most nations don’t want or need that,” said Peter Singer, director of the Brookings Institution’s Center for 21st Century Security and Intelligence and one of the foremost experts in advanced military technology. “Turkey’s not looking to conduct strikes into the Philippines.... But Turkey is looking to be able to carry out long-duration surveillance and potentially strike inside and right on its border.”¶ And that’s a NATO ally seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East. Already, Beijing says it considered a strike in Myanmar to kill a drug lord wanted in the deaths of Chinese sailors. What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea? Or if India uses the aircraft to strike Lashkar-e-Taiba militants near Kashmir?¶ “We don’t like other states using lethal force outside their borders. It’s destabilizing. It can lead to a sort of wider escalation of violence between two states,” said Micah Zenko, a security policy and drone expert at the Council on Foreign Relations. “So the proliferation of drones is not just about the protection of the United States. It’s primarily about the likelihood that other states will increasingly use lethal force outside of their borders.”

#### Dozens of actors are on the verge of acquiring drone technology, and they’re following the U.S. example

Shane, national security correspondent, 11 (Scott, Coming Soon: The Drone Arms Race, New York Times, 8 October 2011, http://www.nytimes.com/2011/10/09/sunday-review/coming-soon-the-drone-arms-race.html?\_r=2&pagewanted=all, da 7-31-13) PC

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.”¶ What was a science-fiction scenario not much more than a decade ago has become today’s news. In Iraq and Afghanistan, military drones have become a routine part of the arsenal. In Pakistan, according to American officials, strikes from Predators and Reapers operated by the C.I.A. have killed more than 2,000 militants; the number of civilian casualties is hotly debated. In Yemen last month, an American citizen was, for the first time, the intended target of a drone strike, as Anwar al-Awlaki, the Qaeda propagandist and plotter, was killed along with a second American, Samir Khan.¶ If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.¶ “The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of “Missile Contagion,” who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”¶ The qualities that have made lethal drones so attractive to the Obama administration for counterterrorism appeal to many countries and, conceivably, to terrorist groups: a capacity for leisurely surveillance and precise strikes, modest cost, and most important, no danger to the operator, who may sit in safety thousands of miles from the target.¶ To date, only the United States, Israel (against Hezbollah in Lebanon and Hamas in Gaza) and Britain (in Afghanistan) are known to have used drones for strikes. But American defense analysts count more than 50 countries that have built or bought unmanned aerial vehicles, or U.A.V.’s, and the number is rising every month. Most are designed for surveillance, but as the United States has found, adding missiles or bombs is hardly a technical challenge.¶ “The virtue of most U.A.V.’s is that they have long wings and you can strap anything to them,” Mr. Gormley says. That includes video cameras, eavesdropping equipment and munitions, he says. “It’s spreading like wildfire.”¶ So far, the United States has a huge lead in the number and sophistication of unmanned aerial vehicles (about 7,000, by one official’s estimate, mostly unarmed). The Air Force prefers to call them not U.A.V.’s but R.P.A.’s, or remotely piloted aircraft, in acknowledgment of the human role; Air Force officials should know, since their service is now training more pilots to operate drones than fighters and bombers.¶ Philip Finnegan, director of corporate analysis for the Teal Group, a company that tracks defense and aerospace markets, says global spending on research and procurement of drones over the next decade is expected to total more than $94 billion, including $9 billion on remotely piloted combat aircraft.¶ Israel and China are aggressively developing and marketing drones, and Russia, Iran, India, Pakistan and several other countries are not far behind. The Defense Security Service, which protects the Pentagon and its contractors from espionage, warned in a report last year that American drone technology had become a prime target for foreign spies

### 2AC – AT: Post-Review CP

#### Only Ex-ante review of killings through specialized courts solve

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

While the current process afforded to U.S. citizens is lacking, it is highly impracticable to provide either notice or an adversarial hearing before a neutral decision maker to a suspected terrorist operating in a remote location in the Horn of Africa or the rugged mountains of Pakistan. Apart from the obvious complications in establishing standing, traditional Article III courts would likely defer to the executive in such a case on non-justiciability grounds.115 Solutions calling for the expatriation of citizens deemed to be terrorists are fraught with judicial complications and set very dangerous precedents for citizenship revocation.116 Any ex post litigation, such as a Bivens style action, for a targeted attack would also be problematic.117 Those in the government charged with carrying out these attacks might be hesitant to do so if there were a threat of prosecution. Moreover, any post-deprivation process would be virtually meaningless in the wake of a successful attack, as the individual would presumably be dead at such point. Instead, the creation of a specialized court to adjudicate these claims ex ante would be a better course of action to consider.

#### Post-Strike review fail to solve—pre-strike review comparatively better

Crandall, 2012

[Carla, Law Clerk to the Honorable Laura Denvir Stith, Supreme Court of Missouri and the author was previously employed by the National Geospatial-Intelligence Agency, READY . . . FIRE . . . AIM! A CASE FOR APPLYING AMERICAN DUE PROCESS PRINCIPLES BEFORE ENGAGING IN DRONE STRIKES, April, 2012 Florida Journal of International Law 24 Fla. J. Int'l L. 55, Lexis] /Wyo-MB

As important as this proposal is, however, it has thus far been limited to post- deprivation analysis. Indeed, its proponents posit only that the Supreme Court's due process approach in war on terror cases "suggests a sound model for judicial control of targeted killings under which courts, applying duly deferential standards, might- on rare occasions-determine the legality of attacks after they occur." n105 With obvious inconsistency, though advocates of this position have called on the executive to develop post-strike procedures to ensure the legitimacy of drone attacks, n106 they are willing to concede that "pre- deprivation procedures would be impracticable." n107 In other words, they suggest that due process only affords a post-deprivation right, after a drone attack, "to some form of judicial review in civil proceedings initiated by private parties." n108¶ Though it is true that "[t]he CIA, before firing a missile, need not and should not invite [a terrorist] or his lawyer to a hearing to contest whether he is, in fact, a committed member of al Qaeda," n109 there is no apparent basis for suggesting outright that due process principles completely break down in the face of a proposal for some other type of pre-strike protections. Indeed, as the next Part argues, the Court's precedents suggest quite the contrary. Even more, as advocates of the ex post position note, an important aspect of their proposal is that it calls for U.S. officials to act in a manner consistent with American values. n110 Surely if these values dictate the necessity of a review after the U.S. [\*75] government kills a terrorist, they also offer guidance in determining which individuals to target in the first place.¶

### CPs

#### 1. Drone Courts key – Congress should establish Judicial Review, it is the best check on the president, all other mechanisms insufficient

Bazzle 12

(Timothy, George Mason University Civil Rights Law Journal, “Shutting the courthouse doors: invoking the state secrets privilege to thwart judicial review in the age of terror,” 2012, Hein Library Online) /wyo-mm

By design, courts serve as a bulwark against the excesses of the political branches. The challenge courts face when confronted with a claim of state secrets is reconciling their Article III duties with the Executive’s potentially competing Article II duties.212 While the temptation for the Executive to concentrate its power is understandable, a robust state secrets privilege insulates an overreaching Executive from meaningful oversight. To the extent courts are able to fashion judicial devices for determining when and how the states privilege applies, they may represent the most important method of controlling Executive Branch activity.213 Given the inability of Congress to enact legislation to constrain the application of the privilege,214 courts are perhaps also the best equipped to block the Executive Branch from self-interestedly invoking the privilege to protect itself from embarrassment and potential civil and criminal liability.215 Academic arguments claiming that courts should automatically defer to the Executive’s expertise in national security and foreign affairs matters216 ignore the potentially more serious—and structural—conflict of interest problem that occurs when an Executive, accused of wrongdoing, can self-servingly invoke the state secretes privilege to conceal its action from public view.217 Reinforcing judicial review of state secrets claim represents an important check on the potential for Executive Branch abuse of the privilege.

#### Judicial review is essential to judicial independence

Gerber, 2007

[Scott D. Gerber is an associate professor at Ohio Northern University College of Law and a senior research scholar in law and politics at the Social Philosophy and Policy Center, The Political Theory of an Independent Judiciary, 116 YALE L.J. POCKET PART 223 (2007), http://thepocketpart.org/2007/01/09/gerber.html] /Wyo-MB

Judicial review fits into the political theory of an independent judiciary in at least two ways. First, judicial review is a core component of the Constitution’s system of checks and balances, a system in which each branch of the federal government is endowed with, in the words of The Federalist No. 48, “a constitutional control over the others.” The President has, among other checks, a veto over congressional bills and the power to nominate federal judges. Congress has, among other checks, the power to override presidential vetoes and to control the size and jurisdiction of the federal courts, as well as the power to impeach all federal officials. Without the power of judicial review, what check—what “constitutional control”—would the federal judiciary have on the President or Congress? The answer is none. As a consequence, judicial review is an inevitable component of the Constitution’s commitment to checks and balances.¶ Judicial review also fits into the political theory of an independent judiciary in another, equally straightforward, fashion: judicial review is the ultimate expression of judicial independence, because without judicial independence no court could safely void an act of a coordinate political branch. Bluntly stated, the risk to a judge who exercises judicial review when he or she is not independent of the executive and the legislature is either removal from the bench or a reduction in salary. John Adams knew this, and so did the Framers who met in Philadelphia during the summer of 1787 when they wrote Adams’s theory of judicial independence into Article III of the Constitution.

#### Judicial independence is critical to democratic consolidation

Herron and Randazzo, 2003

[Erik, University of Kansas and Kirk, University of Kentucky, The Relationship Between Independence and Judicial Review in Post-Communist Courts, THE JOURNAL OF POLITICS, Vol. 65, No. 2, May 2003, Pp. 422–438, http://people.cas.sc.edu/randazzo/herron\_randazzo\_2003\_jop.pdf] /Wyo-MB

Although independent judiciaries are important actors in democratic consolidation, how expressions of judicial independence evolve in transitional societies¶ remains unclear. Ideally, courts review legislation and government decisions¶ under the rubric of constitutionality. That is, the judiciary is able to declare laws¶ and actions unconstitutional and serve as a check against excesses by other¶ branches of government. A strong judiciary in newly independent countries helps¶ the state break with its authoritarian past and develop a constitutional culture that¶ teaches state actors that the legal system cannot be transgressed for political gain¶ (Brewer-Carias 1989; Larkins 1996). However, the development of an independent judiciary can be constrained by a weak institutional legacy, limited training¶ and support for judges, and the strength of other political actors. If the judiciary¶ does not have the authority to make independent decisions, democratic progress may falter, potentially returning the country to “the darkness and chaos of a totalitarian and dictatorial regime” (Mohan 1982, 110).1

#### Solves global wars,

Epstien et al, 2007

[Susan B. Epstein, Nina M. Serafino, and Francis T. Miko Specialists in Foreign Policy Foreign Affairs, Defense, and Trade Division Congressional research service, Democracy Promotion: Cornerstone of U.S. Foreign Policy?, 12-26-7, http://www.au.af.mil/au/awc/awcgate/crs/rl34296.pdf] /Wyo-MB

A common rationale offered by proponents of democracy promotion, including¶ former Secretary of State Madeleine Albright and current Secretary of State¶ Condoleezza Rice, is that democracies do not go to war with one another. This is¶ sometimes referred to as the democratic peace theory. Experts point to European¶ countries, the United States, Canada, and Mexico as present-day examples.¶ According to President Clinton’s National Security Strategy of Engagement and¶ Enlargement: “Democracies create free markets that offer economic opportunity,¶ make for more reliable trading partners, and are far less likely to wage war on one¶ another.”22¶ Some have refined this democracy peace theory by distinguishing between¶ mature democracies and those in transition, suggesting that mature democracies do¶ not fight wars with each other, but that countries transitioning toward democracy are¶ more prone to being attacked (because of weak governmental institutions) or being¶ aggressive toward others. States that made transitions from an autocracy toward¶ early stages of democracy and were involved in hostilities soon after include France¶ in the mid-1800s under Napoleon III, Prussia/Germany under Bismarck (1870-1890),¶ Chile shortly before the War of the Pacific in 1879, Serbia’s multiparty constitutional¶ monarchy before the Balkan Wars of the late 20th Century, and Pakistan’s military guided pseudo-democracy before its wars with India in 1965 and 1971.23¶ The George W. Bush Administration asserts that democracy promotion is a¶ long-term antidote to terrorism. The Administration’s Strategy for Winning the War¶ on Terror asserts that inequality in political participation and access to wealth¶ resources in a country, lack of freedom of speech, and poor education all breed¶ volatility. By promoting basic human rights, freedoms of speech, religion, assembly,¶ association and press, and by maintaining order within their borders and providing¶ an independent justice system, effective democracies can defeat terrorism in the long¶ run, according to the Bush White House.24¶ Another reason given to encourage democracies (although debated by some¶ experts) is the belief that democracies promote economic prosperity. From this¶ perspective, as the rule of law leads to a more stable society and as equal economic¶ opportunity for all helps to spur economic activity, economic growth, particularly of¶ per capita income, is likely to follow. In addition, a democracy under this scenario¶ may be more likely to be viewed by other countries as a good trading partner and by¶ outside investors as a more stable environment for investment, according to some¶ experts. Moreover, countries that have developed as stable democracies are viewed¶ as being more likely to honor treaties, according to some experts.25

#### 1st, The Counterplan can’t solve terrorism—extend the Chebab groupthink internals—review from solely within the executive doesn’t break free from the cycle of groupthink that makes unproportional targeting inevitable—the impact is blowback and undermining the war on terrorism

#### 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.

#### 4th, Counterplan can’t solve—extend 1AC Chebab evidence, Judicial review is key to solve targeting errors and send a signal of international legitimacy—evidence is comparative and conclusive that independent judges are best suited for this role

#### 5th, Cant solve drone prolif—Courts play a highly influential role on executive’s behavior and are key to solve transparency in strikes-Wexler 13

#### There are no more signature strikes used

Brown 13 (Hayes, “Report: U.S. Drops Signature Strikes In Pakistan” <http://thinkprogress.org/security/2013/07/25/2356391/pakistan-drones-signature-strikes/>)

The United States has ended the use of so-called signature drone strikes in Pakistan, and the total number of incidents involving armed unmanned aerial vehicles there has plummeted, according to a new report from the Associated Press.

In gathering hours upon hours of footage of a given location, drones allow analysts to piece together “pattern of life” data, which are then examined for clues that suspected terrorists are using the area for planning or staging purposes. The evidence used to justify strikes against these locations — “signature strikes” — doesn’t include the appearance of known terrorists, but rather often circumstantial proof such as large gatherings of men between the ages of 16-55, where they’ve traveled while under surveillance and whether or not they were in the vicinity of known targets when the strike occurred. According to the Obama administration, however, drone strikes carried out since the president took office have all been against high-level members of the Taliban and al-Qaeda, making these drones a valuable tool in the fight against terrorism. Despite that insistence, President Obama announced in May that the use of drone strikes and other applications of force in fighting terrorism will be streamlined to a more limited set of targets, with a higher level of scrutiny applied when determining them. That decision was codified in the administration’s new “playbook” on counterterrorism tactics around the same time. According to a letter from Attorney General Eric Holder to Congress, in future drone strikes “will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.”

That choice has apparently resulted in a corresponding drop in strikes within Pakistan, long the primary theater for Central Intelligence Agency-flown unmanned aerial vehicles. So far in 2013, there have been only 16 drone strikes carried out in Pakistan, compared to estimates of a peak of 122 in 2010 and 48 over the course of last year. Obama’s pledge and the drop in strikes suggests that the controversial — and until recently unacknowledged — method of targeting potential terrorists for execution is winding down.

#### Plan solves eliminates strikes that risk civilians and low level targets—that’s Chebab,

#### And the plan functionally erases signature strikes

Cohen 13

(Adam, Program assistant, Friends Committee on National Legislation, Huffington Post, “One Step Closer to Meaningful Oversight of International Targeted Killing,” March 30, 2013, <http://www.huffingtonpost.com/adam-cohen/drone-killings-hearing_b_3180495.html>) /wyo-mm

We also learned from this hearing that there is near-unanimous consent for a constructive review of these policies. From Rosa Brooks, law professor at Georgetown University, fellow at the New America Foundation and former Counselor to the Under Secretary of Defense for Policy, to Colonel Martha McSally of the U.S. Air Force, all of the witnesses highlighted their willingness to examine the legal and procedural rules surrounding targeted killing. All of them highlighted their belief that it is critical to increase oversight, to thoroughly vet those being targeted, and to reduce civilian casualties as much as possible. Even those witnesses who supported and spoke to the virtues of drones favored the codification of a better review process, a larger oversight role for Congress and a court for reviewing the legality of conducted attacks and for appropriately compensating the families of victims. While these measures would not end U.S. targeted killings abroad altogether, they could rein in some of the program's worst offenses, more accurately define and protect civilians, and reduce the total number of strikes -- particularly signature strikes based on observed behavior rather than intelligence reviews. This groundbreaking hearing could be the first step in maturing the national dialogue on drones. In recent months, members of Congress have made public statements, held hearings, introduced and sponsored legislation and written letters to the administration challenging the federal government's right to deploy drones to infringe upon the rights of U.S. citizens at home or abroad. Finally, the scrutiny is shifting to the administration's opaque counterterrorism policies across the world. Congress should use this eye-opening discussion as the starting point to further question the drones program: hold another hearing; introduce legislation; and let the administration (whose decisions to neither provide a witness at the hearing nor make public the remaining Department of Justice memos was well noted) know that it is just as concerned about the ethical and strategic implications of targeted killing. With this hearing we are one step closer to meaningful transparency and accountability. We must move quickly to take the next.

#### Plan key to effective signature strikes—would limit to only high level intelligence and low civilian risk targets

#### Signature strikes are good and don’t risk civilian casualties when intelligence is effectively used strikes can kill high value targets

Greg Miller, Washington Post, “CIA seeks new authority to expand Yemen drone campaign,” April 18, 2012.

Proponents of the plan said improvements in U.S. intelligence collection in Yemen have made it possible to expand the drone campaign — and use signature strikes — while minimizing the risk of civilian casualties. They also pointed to the CIA’s experience in Pakistan. U.S. officials said the agency killed more senior al-Qaeda operatives there with signature strikes than with those in which it had identified and located someone on its kill list. In Pakistan, the CIA “killed most of their ‘list people’ when they didn’t know they were there,” said a former senior U.S. military official familiar with drone operations. The agency has cited the Pakistan experience to administration officials in arguing, perhaps counterintuitively, that it can be more effective against al-Qaeda’s Yemen affiliate if it doesn’t have to identify its targets before an attack. Obama, however, ruled out a similar push for such authority more than a year ago. Increasing focus on Yemen The CIA, the National Security Agency and other spy services have deployed more officers and resources to Yemen over the past several years to augment counterterrorism operations that were previously handled almost exclusively by the U.S. Joint Special Operations Command. The CIA began flying armed drones over Yemen last year after opening a secret base on the Arabian Peninsula. The agency also has worked with the Saudi and Yemeni intelligence services to build networks of informants — much the way it did in Pakistan before ramping up drone strikes there. The agency’s strategy in Pakistan was centered on mounting a drone campaign so relentless that it allowed no time between attacks for al-Qaeda operatives to regroup. The use of signature strikes came to be seen as critical to achieving that pace. The approach involved assembling threads of intelligence from multiple sources to develop telltale “signatures” of al-Qaeda activity based on operatives’ vehicles, facilities, communications equipment and patterns of behavior. A former senior U.S. intelligence official said the CIA became so adept at this that it could tell what was happening inside an al-Qaeda compound — whether a leader was visiting or explosives were being assembled, for example — based on the location and number of security operatives surrounding the site.

### 2AC – Pres Powers Disad

#### 1st, Pres powers low now—Syria decision undermined Obama’s presidential powers

Nather and Palmer, 9-1-13

[David and Anna, Politico, Bushies fear Obama weakening presidency, http://www.politico.com/story/2013/09/bushies-fear-obama-weakening-presidency-96143.html] /Wyo-MB

President Barack Obama just turned decades of debate over presidential war powers on its head.¶ Until Saturday, when Obama went to Congress to ask for permission to strike Syria, the power to launch military action had been strongly in the hands of the commander in chief. Even the 1973 War Powers Resolution allows bombs to start falling before the president has to ask Congress for long-term approval.¶ For three decades after Watergate, conservatives like Dick Cheney and those of his ilk sought to increase executive branch power that they felt had been eroded by liberal congressional reformers. George W. Bush’s legal team crafted controversial opinions that emboldened the White House on a wide range of national security areas, from interrogation to surveillance.¶ That makes the move by Obama to hand a piece of the messy situation in Syria to Congress a clear step in the other direction — an abdication of power to Congress at a moment when he has no good solutions.¶ And even if Obama ultimately balks at Congress if they vote down his ask, prominent conservatives who fueled the expansion of presidential power — especially Bush administration alums — are beside themselves, arguing that Obama has weakened the presidency.

#### 2nd, A multitude of other actors hamper presidential flexibility—thumps the disad

Rozell 12

(Mark Rozell, Professor of Public Policy, George Mason University, “From Idealism to Power: The Presidency in the Age of Obama” 2012, <http://www.libertylawsite.org/book-review/from-idealism-to-power-the-presidency-in-the-age-of-obama/>, KB)

A substantial portion of Goldsmith’s book presents in detail his case that various forces outside of government, and some within, are responsible for hamstringing the president in unprecedented fashion: Aggressive, often intrusive, journalism, that at times endangers national security; human rights and other advocacy groups, some domestic and other cross-national, teamed with big resources and talented, aggressive lawyers, using every legal category and technicality possible to complicate executive action; courts thrust into the mix, having to decide critical national security law controversies, even when the judges themselves have little direct knowledge or expertise on the topics brought before them; attorneys within the executive branch itself advising against actions based on often narrow legal interpretations and with little understanding of the broader implications of tying down the president with legalisms.

#### 3rd, Link Turn—extend 1ac Chebab evidence, Counterplan bolsters executive action—Obama power is vindicated when he has the backing and support of courts, plan results in more decisive executive actions.

#### And, the link turn outweighs the link—Judicial oversight serves to legitimize executive decisions

Kwoka 11

(Lindsay, University of Pennsylvania Law School, J.D, Journal of Constitutional Law, “Trial by Sniper: The Legality of Targeted Killing in the War on Terror,” 2011, Lexis) /wyo-mm

Providing an intra-executive process is not sufficient in the context of targeted killing of a U.S. citizen outside of a war zone.122 Murphy and Radsan argue that due process would be satisfied if, after a strike has already occurred, the executive branch launched an investigation of its legality.123 They argue that interference from the judicial branch would undermine the executive’s decisionmaking and compromise state secrets.124 On the contrary, judicial intervention would not undermine the executive’s decisionmaking, but rather would serve to legitimize the executive’s actions. Even during wartime, many are critical of actions taken by the executive to deprive individuals of rights without intervention by the judicial branch. For instance, many objected to the Military Commissions Act on the grounds that it did not afford the accused of an independent judiciary.125 Furthermore, as noted above, the concerns about minimizing the disclosure of state secrets would be alleviated by permitting only the decisionmaker to review the evidence. The hearing would be conducted privately and the information would be conveyed on a “need-to-know” basis only. Thus the confidentiality problems associated with affording suspected terrorists a full jury trial are not present in a process where the judge reviews the evidence in confidence. Not only would judicial intervention decrease public skepticism of the executive’s decisions, but would also promote accuracy and fairness.126 Because mistakes are possible and have happened regarding misclassification of terrorists, accuracy is better preserved by allowing the judiciary to check the actions of the executive.127 The process would likely be fairer because federal judges are appointed for life tenure, and thus are less likely to be subject to public pressure.128 Moreover, having a federal judge decide on whether targeted killing is permissible would alleviate executive branch pressure. If a member of the executive branch were to be the neutral decisionmaker, he would have incentive to permit the President to do whatever he deems necessary. A federal judge would not likely be subject so such influence.

#### 4th, 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).

#### 5th, 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. n16