## First Off—Exec Reform CP

#### Plan Text: The USFG should set up an intra-executive tribunal to review drone strikes before allowing strikes.

#### De Facto and De Jure self-binding create accountability from the courts and risk political alienation for going back on promises

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 138-139//wyo-sc]

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is "yes, at least to the same extent that a legislature can." Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

#### Obama can increase administration transparency- new commitment key

Tuuti 2013

[Camille Tuuti, journalist, March 10th, 2013, Transparency advocates give administration mixed marks, http://fcw.com/articles/2013/03/10/open-gov-advocates.aspx, uwyo//amp]

President Barack Obama vowed four years ago to make his administration the most open in history. But despite thousands of hours invested in laying the foundation for transparency, a new study finds actual agency adoption of policies has been uneven and occasionally weak. The Center for Effective Government’s March 10 report examines the Obama administration's progress on open government in three main areas: creating an environment supportive of transparency, improving the usability of government information, and reducing secrecy related to national security. “Overall, we found that the administration has taken a lot of positive steps on the policy side to strengthen open government,” Gavin Baker, open government policy analyst at the Center for Effective Government, told FCW. “The weakness has been that those policies are inconsistent in how they’re trickling down to agencies, so over the next four years we’re hoping to see reinvigorated approach to implementation and getting these new policies into practice.”

## Second Off—Prez Powers

#### Court restrictions on the president’s war powers violates separation of powers

Turner 2012

[Professor Turner holds both professional and academic doctorates from the University of Virginia School of Law, where in 1981 he co-founded the Center for National Security Law with Professor John Norton Moore—who taught the nation’s first course on national security law in 1969. Turner served as chairman of the ABA Standing Committee on Law and National Security from 1989–1992., The War Powers Resolution at 40: Still an Unconstitutional, Unnecessary, and Unwise Fraud That Contributed CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW·VOL. 45·2012, Directly to the 9/11 Attacks, <http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.pdf>, uwyo//amp]

Yet another key Jefferson rival, Chief Justice John Marshall, reaffirmed the president’s independent constitutional responsibilities in the field of foreign affairs in perhaps the most famous of all Supreme Court decisions, Marbury v. Madison, when he wrote: By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience . . . . [W]hatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and being entrusted to the executive, the decision of the executive is conclusive.18 Marshall illustrated this principle by mentioning the Secretary of Foreign Affairs (later retitled Secretary of State) and declaring that the acts of that officer “can never be examinable by the courts.”19 As Professor Wright observed in 1922, “when the constitutional convention gave ‘executive power’ to the President, the foreign relations power was the essential element in the grant. . . .”20

#### Presidential power is zero-sum- the branches compete

Barilleaux and Kelley 2010 [Ryan J. , Professor of Political Science at Miami, OH; and Christopher S. , Lecturer (Political Science) at Miami, OH, The Unitary Executive and the Modern Presidency, Texas A&M Press, p. P 196-197, 2010// wyo-sc]

In their book *The Broken Branch,* Mann and Ornstein paint a different view. They discuss a wider range of public policy areas than just uses of force. Their argument is that although party is important as a conditioning factor for times when Congress might try to restrain an aggressive or noncompliant executive, there has also been a broader degrading of institutional power that has allowed, in a zero-sum context, the president to expand executive power at the expense of Congress. Mann and Ornstein thus posit that congressional willingness to subordinate its collective power to that of the president has occurred across domestic politics and foreign affairs. They argue that a variety of factors are at fault for this trend, including the loss of institutional identity, the willingness to abdicate responsibility to the president, the demise of "regular order," and most importantly that Congress has lost its one key advantage as a legislative body—the decay of the deliberative process. Thus, they do recognize that party politics has played an important role in the degrading of congressional power, but they see a larger dynamic at work, one that reaches beyond partisanship. While we agree with Howell and Pevehouse that Congress retains important mechanisms for constraining the president, we tend to agree with the Mann and Ornstein view that there has been a significant and sustained decline in Congress's willingness to use these mechanisms to challenge presidential power. This tendency has been more prevalent in foreign affairs but has occurred noticeably across the spectrum of public policy issues. Building from both of those perspectives, and others, we argue that it is helpful to understand the pattern of congressional complicity in the rise of presidential power by viewing Congress's aiding and abetting as the logical outcomes of a collective action problem.31 By constitutional design, the legislative branch is in competition with the president for institutional power, yet Congress is less than ideally suited for such a political conflict. Congress's comparative disadvantage begins with its 535 "interests" that are very rarely aligned, and if so, only momentarily. Because individual reelection overshadows all other goals, members of Congress naturally seek to take as much credit and avoid as much blame from their constituencies as possible.32 The dilemma this creates for members is how to use or delegate its collective powers in order to maximize credit and minimize blame in the making of public policy. Congress can choose to delegate power internally to committees and party leaders or externally to the executive branch. One can conceptualize the strategic situation of members of Congress in terms of a prisoner's dilemma.33 If members cooperate (that is, in Mann and Ornstein's parlance, if members identify with the institution), they could maintain and advance Congress's institutional power. But they would have to bypass some potential individual payoffs that could come from defection, such as "running against Congress" as an electoral strategy. A stronger institution should make all members of Congress better off, but it also makes them responsible for policymaking. If members defect from the institution, they thus seek to maximize constituency interests either by simply allowing power to fall by the wayside or by simply delegating it to the president. As more and more members choose to defect over time, the "public good" of a strong Congress is not provided for or maintained—and Congress's institutional authority erodes and presidential power fills in the gap. Why, in other words, is congressional activism so often "less than meets the eye," as Barbara Hinckley maintained in her book by that title? Or why has the ''culture of deference" that Stephen Weissman identified developed as it has?34 We argue that the collective action problem that exists in Congress leads to the development of these trends away from meaningful congressional stewardship of foreign policy and spending.

#### Strong executive key to solve climate change-lack of congressional action prevents solvency in the squo and executive negotiating power key to check environmental and economic collapse

Wold 2012

[Chris Wold, Professor of Law & Director, International Environmental Law Project

(IELP), 2012, Lewis & Clark Law School, 2012, CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW·VOL. 45·2012, uwyo//amp]

In 2007, then-Senator Barack Obama wrote, “As the world’s largest producer of greenhouse gases, America has the responsibility to lead.”1 As President, he has led. At the domestic level, working primarily through the Environmental Protection Agency, President Obama has increased fuel economy standards,2 imposed new limits ongreenhouse gas emissions from “major emitting facilities,”3 and imposed limits on emissions relating to the development of oil and gas,4 among many other things.5 As he has said, he must use his executive power because “We Can’t Wait” for Congress to act on climate change.6 Nonetheless, he must do more. President Obama has pledged to the international community that the United States will reduce its greenhouse gases by 17% of 2005 levels by 2020 and by 83% by 2050.7The President has also set a goal of ensuring that “[b]y 2035 we will generate 80 percent of our electricity from a diverse set of clean energy sources—including renewable energy sources like wind, solar, biomass, and hydropower; nuclear power; efficient natural gas; and clean coal.”8 None of his actions come close to meeting these goals. Moreover, he must do more to help the international community reach its goal of keeping average global temperatures from increasing 2°C above pre-industrial levels.9 Many scientists argue that the 2°C goal can be met, and the worst impacts of climate change avoided, if we keep carbon dioxide concentrations below 350 parts per million (ppm).10 As of July 2012, atmospheric concentrations of carbon dioxide exceeded 394 ppm.11 The United States is by far the largest historic contributor to these high levels of atmospheric carbon dioxide, having contributed 28.52% of carbon dioxide from energy.12 As such, the United States must do much more to ensure that the world’s largest historic emitter of greenhouse gases fulfills its moral and perhaps legal obligation to reduce greenhouse gases before we reach climate change tipping points beyond which climate change will be irreversible for millennia to come.And indeed, President Obama can do much more. As described below, the president can use his foreign affairs power to take a more positive role on the international stage, whether that stage is the climate change negotiations, the negotiations concerning other international treaties, or within the World Trade Organization. He can also do more with his executive power, not only by increasing existing standards but also by applying them to existing sources of greenhouse gases, not just new sources. Further, President Obama has so far failed to take advantage of strategies to mitigate emissions of short-term climate forcers such as black carbon that could provide significant climate benefits. Lastly, the approaches adopted so far have not pushed regulated entities or others to develop the transformative technologies that will be needed to deliver sufficient climate change benefits to avert the environmental and economic crisis that lies ahead if we fail to take more aggressive action.

**Studies show warming is human caused and will cause extinction**

**Ahmed 2010**

(Nafeez Ahmed, Executive Director of the Institute for Policy Research and Development, professor of International Relations and globalization at Brunel University and the University of Sussex, Spring/Summer 2010, “Globalizing Insecurity: The Convergence of Interdependent Ecological, Energy, and Economic Crises,” Spotlight on Security, Volume 5, Issue 2, online)

Perhaps **the most notorious indicator is anthropogenic global warming**. **The landmark** 2007 Fourth **Assessment** Report of the UN Intergovernmental Panel **on Climate Change** (IPCC) – which **warned that at then-current rates of increase of fossil fuel emissions, the earth’s global average temperature would likely rise by 6°C by the end of the 21st century** **creating a** largely **uninhabitable planet** – was a wake-up call to the international community.[v] **Despite the pretensions of ‘climate sceptics,’ the peer-reviewed scientific literature has continued to produce evidence that the IPCC’s original scenarios were wrong – not because they were too alarmist**, but on the contrary, **because they were far too conservative**. According to a paper in the Proceedings of the National Academy of Sciences, **current CO2 emissions are worse than all six scenarios contemplated by the IPCC. This implies that the IPCC’s worst-case six-degree scenario severely underestimates the most probable climate trajectory** under current rates of emissions.[vi] It is often presumed that a 2°C rise in global average temperatures under an atmospheric concentration of greenhouse gasses at 400 parts per million (ppm) constitutes a safe upper limit – **beyond which further global warming could trigger rapid and abrupt climate changes that, in turn, could tip the whole earth climate system into a process of irreversible, runaway warming.[**vii] Unfortunately, we are already well past this limit, with the level of greenhouse gasses as of mid-2005 constituting 445 ppm.[viii] Worse still, cutting-edge scientific data suggests that the safe upper limit is in fact far lower**. James Hansen**, director of the NASA Goddard Institute for Space Studies, **argues that the absolute upper limit for CO2 emissions is 350 ppm: “If the present overshoot of this target CO2 is not brief, there is a possibility of seeding irreversible catastrophic effects.**”[ix] A wealth of **scientific studies** has **attempted to explor**e the role of **positive-feedback mechanisms between different climate sub-systems**, the operation of which could intensify the warming process. **Emissions beyond 350 ppm over decades are likely to lead to the total loss of Arctic sea-ice** in the summer **triggering magnified absorption** of sun radiation, **accelerating warming**; the melting of Arctic permafrost triggering **massive methane injections** into the atmosphere, accelerating warming; the **loss of half the Amazon rainforest** triggering the momentous release of billions of tonnes of stored carbon, accelerating warming; and **increased microbial activity in the earth’s soi**l leading to further huge releases of stored carbon, accelerating warming; to name just a few. **Each of these feedback sub-systems alone is sufficient by itself to lead to irreversible, catastrophic effects that could tip the whole earth climate system over the edge**.[x] Recent studies now estimate that the **continuation of business-as-usual would lead to global warming of three to four degrees Celsius before 2060 with multiple irreversible, catastrophic impacts; and six, even as high as eight, degrees by the end of the century – a situation endangering the survival of all life on earth.[**xi]

## Third Off—K

#### THE AFF FETISHIZES THE LAW AND ITS ABILITY TO RESOLVE PRESIDENTIAL POWERS, THEIR CALL RESULTS IN A RETURN TO LAW THAT DESTROYS THE POSSIBILITY FOR RADICAL POLITICS

NEOCLEOUS 2006

(Mark Neocleous, Politics & History @ Brunel University, “the Problem with Normality”, Alternatives, no. 31 //wyo-tjc)

To criticize the use of emergency powers in terms of a suspension of the law, then, is to make the mistake of counterpoising normality and emergency, law and violence. In separating “normal” from “emergency,” with the latter deemed “exceptional,” this approach parrots the conventional wisdom that posits normalcy and emergency as two discrete and separable phenomena. This essentially liberal paradigm assumes that there is such a thing as “normal” order governed by rules, and that the emergency constitutes an “exception” to this normality. “Normal” here equates with the separation of powers, entrenched civil liberties, an ongoing debate about public policy and law, and the rule of law, while “emergencies” are thought to require strong executive rule, little time for discussion, and are premised on the supposedly necessary suspension of the law and thus the discretion to suspend key liberties and rights. But this rests on two deeply ideological assumptions: first, the assumption that emergency rule is aberrational; and, second, an equation of the emergency/nonemergency dichotomy with a distinction between constitutional and nonconstitutional action. Thus liberalism seeks to separate emergency rule from the normal constitutional order, thereby preserving the Constitution in its pristine form while providing the executive with the power to act in an emergency.47 But the historical evidence suggests that emergency powers are far from exceptional; rather, they are an ongoing aspect of normal political rule. Emergency, in this sense, is what emerges from the rule of law when violence needs to be exercised and the limits of the rule of law overcome. The genealogy of “emergency” is instructive here. “Emergency” has its roots in the idea of “emerge.” The Oxford English Dictionary suggests that “emerge” connotes “the rising of a submerged body out of the water” and “the process of coming forth, issuing from concealment, obscurity, or confinement.” Both these meanings of “emerge” were once part of the meaning of “emergency,” but the first is now rare and the second obsolete. Instead, the modern meaning of “emergency” has come to the fore, namely a sudden or unexpected occurrence demanding urgent action and, politically speaking, the term used to describe a condition close to war in which the normal constitution might be suspended. But what this tells us is that in “emergency” lies the idea of something coming out of concealment or issuing from confinement by certain events. This is why “emergency” is a better category than exception: Where “emergency” has this sense of “emergent,” exception instead implies a sense of ex capere, that is, of being taken outside. Far from being outside the rule of law, emergency powers emerge from within it. They are thus as important as the rule of law to the political management of the modern state. There is, however, an even wider argument to be made. The idea that the permanent emergency involves a suspension of the law encourages the idea that resistance must involve a return to legality, a return to the normal mode of governing through the rule of law. But this involves a serious misjudgment in which it is simply assumed that legal procedures, both international and domestic, are designed to protect human rights from state violence. Law itself comes to appear largely unproblematic. What this amounts to is what I have elsewhere called a form of legal fetishism, in which law becomes a universal answer to the problems posed by power. Law is treated as an independent or autonomous reality, explained according to its own dynamics. This produces the illusion that law has a life of its own, abstracting the rule of law from its origins in class domination and oppression and obscuring the ideological mystification of these processes in the liberal trumpeting of the rule of law.48 To demand the return to the “rule of law” is to seriously misread the history of the relation between the rule of law and emergency powers and, consequently, to get sucked into a less-than-radical politics in dealing with state violence. Part of what I am suggesting is that emergency measures, as state violence, are part of the everyday exercise of powers, working alongside and from within rather than against the rule of law, as part of a unified political strategy in the fabrication of social order.

#### DRONES REDUCE VICTIMS OF STRIKES TO BE NON-SUBJECTS OR RISK FACTOR ALLOWING THEM CATEGORIZED AS DISPOSABLE AND EXTERMINATED IN THE ZONE OF ANOMIE

Pugliese 13

[Joseph Pugliese, Associate Professor of Cultural Studies at Macquarie University, “State Violence and the Execution of Law”, pg-, \\wyo-bb]

The violent biopolitical asymmetry that structures the conduct of imperial¶ drone war is graphically materialized in the killing of Daraz Khan and two of his¶ friends in southern Afghanistan. Daraz Khan and his friends were collecting scrap¶ metal on a hillside when they were killed by a drone missile, after they were¶ mistakenly taken to be planting mines in the area. The anomic violence of drone¶ killings is perfectly encapsulated in this Pentagon response: ‘We’re convinced that¶ it was an appropriate target . . . [although] we do not yet know exactly who it was .’ 92¶ The US state’s practice of killing anonymous targets (the names of the victims¶ were only later revealed by their families) under the rubric of ‘signature strikes’¶ assumes its biopolitical dimensions once situated in its doctrine of ‘preventative’¶ war. In effect, as Robert Castel outlines in his Foucauldian elaboration of the¶ state’s increasing use of practices of ‘preventative’ intervention: ‘There is, in fact,¶ no longer a relation of immediacy with a subject because there is no longer a subject .¶ What the new preventative policies primarily address is no longer individuals but¶ factors liable to produce risk.’ 93 The US state’s use of drones in the ‘ungoverned’¶ spaces of the South evidences this insight: Daraz Khan and his friends were not¶ ‘subjects’ – their identities, as the US military admits, were unknown – rather, they¶ were viewed as a mere constellation of ‘risk factors’ that needed to be killed in an¶ act of ‘anticipatory self- defense.’ In this case, the ‘calculus of probabilities’ was¶ evidently high enough to determine the death of innocent civilians in order to¶ secure a ‘preventative’ strike.¶ The calculus of probabilities that enables the effective liquidation of the subject¶ must be seen as a structural effect of a statist regime of visuality that instrumentalizes¶ life in terms of an algebraic formula ( patterns of life) that, together with the¶ objectifying effects of screen technologies, works to render the material abstract¶ (the human subject as non- subject), the individual generic (the fi gure in the landscape¶ as mere index of risk factors) and the named anonymous (the individuating¶ singularity of a proper name rendered superfl uous in the face of a computational¶ risk calculus predicated on anonymous ‘patterns of life’). This statist regime of¶ visuality, in effectively abstracting its human targets and reducing them to a calculable¶ formula of ‘risk factors,’ is instrumental in enabling the administrative indifference¶ to the obliteration of life that this type of seeing enables and sanctions.¶ In his analysis of the necropolitical dimensions of empire, Achille Mbembe¶ poses two critical questions that cut to the heart of these imperial asymmetries of¶ power: ‘What difference is there between killing with a missile helicopter or a tank¶ and killing with one’s body? Does the distinction between the arms used to inflict¶ death prevent the establishment of a system of general exchange between the¶ manner of killing and the manner of dying?’ 94 In his essay, Mbembe does not¶ discuss the use of drones in war, however, his latter question can be effectively¶ transposed to the imperial use of this technology: precisely what the necropolitical¶ use of drones precludes is ‘a general system of exchange’ between the prosthetic¶ tele- techno ensemble of the US imperial state and its anonymous and unsuspecting¶ victims who have neither a right of reply nor recourse to judicial procedure.¶ The necropolitical dimensions of drones are graphically underscored by the¶ thanatological terminology that is used by the military to describe the vampiric¶ death and resurrection of the drones in their everyday operations: ‘When not¶ being used, the Predators are disassembled and stored at Indian Springs in crates¶ that are called “coffins.” In turn, these are packed in what airmen refer to, naturally,¶ as the “morgue.” At the time of deployment, the coffins are pulled from the¶ morgue and airlifted to the forward operating base for reassembly.’ 95 Once they¶ are resurrected from their coffins and deployed from their morgue depositories,¶ drones become the bearers of anomic violence and airborne death. The type of¶ automated execution that US drone warfare enables is tantamount to a type of¶ international terrorism. Reflecting on the legality of these automated executions¶ with specific reference to the US killing of so- called ‘enemy combatants,’ Armin¶ Krishnan argues that ‘Killing them abroad without giving them the opportunity to be arrested and receiving a fair trial would fall under the definition of international¶ terrorism [as defined by U.N. Resolution 1556 (2004)].’ 96 The US’s drone attacks must be seen as instantiating Agamben’s concept of the ‘inexecution’ of¶ law. ‘Every fiction of a nexus between violence and law disappears here: there is¶ nothing but a zone of anomie, in which violence without any juridical form acts.’ 97¶ Agamben’s ‘zone of anomie’ perfectly captures the zone of violence that designates the anonymous ‘patterns of life’ that can be killed by drones with impunity.¶ Enframed by cameras and monitors, the victims of drone strikes become themselves¶ mere ‘drones’ to the drones; scurrying insects that are dismembered and¶ incinerated by the airborne fire that is unleashed by the weaponized drones. In¶ tropological terms, there is a complex process of prosopopoeia operative in the¶ figuration of drone technologies. On the one hand, as cyborg, the drone is brought¶ to ‘life’ through the ruse of an animating logic that invests it with animal qualities of predatory agency. For example, following its successful strike on a target, the¶ Predator drone is described in the literature in this manner: ‘The eyes of its Lynx¶ side aperture have seen , and the talons of the AGM-114 Hellfire missile on the¶ starboard talon have struck .’ 98 On the other hand, there is operative a tropic¶ transposition of the technology’s entomological nomenclature to the actual victims¶ of the technology; the consequent process of animalization renders its human targets disposable. This view of the drone victims is evidenced by one drone¶ commentator who likens the drone attacks to ‘going into a beehive, one bee at a¶ time,’ with the resultant problem that ‘the hive will always produce more bees.’ 99¶ Drone crews talk about how they need ‘to kill bugs.’ 100 The CIA, in fact, terms a¶ successful drone hit as ‘bugsplat.’ 101 The term ‘bugsplat’ caricatures its victims by¶ inserting them within the field of cartoon pop culture where, as disposable figures¶ executed via what drone operators call ‘Kill TV,’ their deaths are scripted as mere¶ comic mishap. ‘Bugsplat’ articulates the effective genealogical connections¶ between video games and drone war games, as it is the actual name of a children’s¶ interactive video game, now transposed to the killing operations of war. ‘Bugsplat’¶ reduces the human victims of drones to nothing more than liquefied entomological waste generated via a technology driven by a more highly evolved species –¶ qua the human as opposed to the insect. Operative here is that foundational¶ biopolitical caesura that effectively separates select humans from animals and¶ that, simultaneously, enables the coding of certain other humans as animals that¶ can be killed, as non- human animals are, with impunity.¶

#### SOCIETY HAS BEEN REPEATEDLY CONFOUNDED AT THE FAILURE OF LAW TO CONTAIN VIOLENCE—WE SEE LAW AS A ‘LESSER EVIL’ THAT IS NECESSARY TO HUMANIZE WAR. QUITE TO THE CONTRARY, THE LAWS OF WAR LEGITIMIZE AND PROTECT STATIST FORMS OF VIOLENCE AND CRUSH DISSENT

BERMAN (Prof of Law at Brooklyn Law School) 2004

[Nathaniel, “Privleging Combat?”, Columbia Journal of Transnational Law, p. ln //wyo-tjc]

**Through examining the legal doctrines crucial to defining the combatants' privilege**, in my view the key concept of jus in bello, **this Article seeks to undo the circumlocutions that often block frank discussion of the relationship of law to war. Contrary to conventional wisdom**, I argue that **it is misleading to see law's relationship to war as primarily one of the limitation of organized violence, and even more misleading to see the laws of war as historically progressing toward an ever-greater** **limitation of violence. n6 Instead**, I put forward three central propositions. First, **rather than standing in opposition to war, law has long been directly involved in the construction of war - the construction of war as a separate sphere of human activity in [\*5] which the "normal" rules of social life, codified, for example, in the domestic criminal law regulating violence, do not operate. n7 Rather than opposing violence, the legal construction of war n8 serves to channel violence into certain forms of activity engaged in by certain kinds of people, while excluding other forms** engaged in by other people. n9

#### The Alternative is to write against the state.

#### Exposing the law as violence is necessary to create space for rethinking that makes social relations outside of statist violence possible

Neocleous 2003

[Mark, Teaches politics @ Brunel, Imagining the state, Philadelphia: Open University Press, 6-7/uwyo-ajl]

The last point should indicate to the reader that this is a polemical book about a polemical topic. As such, I should be clear about my intentions. If a hidden agenda seems nasty, then an exposed one looks downright impudent.13 Writers these days increasingly like to stand aside from the affray. This is nowhere more obvious than in books in which affray is a central issue-namely books on issues such as the state, power and capital. On the one hand, this is no doubt due to the fate of the academy in contemporary capitalism-academic research assessment exercises which seem to have knocked the political stuffing out of seemingly political writers (best not write anything too political about this political topic, in case it damages one's promotion prospects). On the other hand, it is also clearly connected to the demise of any coherence the Left once had. Writers on the Left appear to be happier to retreat into ever more exegetical work on text after text, with little sense as to the purpose of reading political writers in the first place. Or, worse, they have bought into the stunningly naive socio-political claim that we have moved into a world in which there is politics without enemies.4 (And if there are no enemies, then there is no ground for any fundamental disagreement and thus no real need to say anything interesting at all.) Too many intellectuals on the Left have thus developed an instrumental inability to think beyond the instructions and parameters provided for them by the state and one of its key ideological apparatuses - the university. So let me say that this book is written from outside the statist political imaginary (or at least as much as one can be outside it), and also against it. To write against the statist imaginary is thus intended as an act of resistance - though admittedly not the bravest act of resistance one might imagine, since the state aims to dominate the thought of even those who oppose it (indeed, one might say especially those who oppose it). Pierre Bourdieu has argued that `to endeavour to think the state is to risk either taking over, or being taken over by, the thought of the state','~ and as I argue in Chapter 2, as part of its administration of civil society the state aims to structure the way we view the world by generating the categories through which citizens come to imagine collective identity and thus their own political subjectivity. One of the implications of this is that the statist political imaginary has assisted the state in setting limits on the theoretical imagination, acting as a block on the possibility of conceiving of a society beyond the state.This is a book that tries to think the state without either taking over or being taken over by the thought of the state. It therefore rests on a different political imaginary, one which I mention here and return to only briefly at the very end of the book, which arises out of the tradition of the oppressed which teaches us that the `state of exception' in which we live is not the exception but the rule. As Walter Benjamin recognized, to write against the state of exception in this way is to aim to bring about a real state of emergency which imagines the end of the state, and thus an end to the possibility of fascism.

### Adv 1--Pakistan

#### Drones crush terrorists and solve militant takeover in Pakistan – no anti-americanism in tribal areas now

**Nadim 2012** (Hussain Nadim, visiting scholar at the Woodrow Wilson Center, August 8, 2012, "How Drones Changed the Game in Pakistan," National Interest, nationalinterest.org/how-drones-changed-the-game-pakistan-7290)

Regardless of what the news agencies in Pakistan claim about the negative effects of drone strikes, the weapon is proving to be a game changer for the U.S. war on terrorism. And surprisingly, the Pakistani Army quietly admits to this fact. Just the way Stinger missiles shifted the balance of power in favor of the United States in the 1980s, drones are producing the same results.¶ The critics of unmanned strikes, who claim that drones are contributing to growing radicalization in Pakistan, haven’t looked around enough—or they would realize that much of the radicalization already was established by the Taliban in the 1990s. The real tragedy is that it is acceptable for the Taliban to radicalize and kill, but it is considered a breach of sovereignty for the United States, in pursuit of those radicalizing Pakistan’s people, to do the same.¶ There is so much protest over the drones because the media reports about them are biased. Although people on ground in war zones contend that the drone strikes have very few civilian casualties and, with time, have become extremely precise, the media presents quite a different story to boost its ratings.¶ Many in Pakistan, especially in the army, understand the positive impact of this weapon. Drones are coming in handy for two reasons: their precision and psychological effect. Many analysts of this subject have been concerned only with the military aspect, such as whether or not drones are precise enough and the casualties they incur. But part of what works in favor of the United States is the psychological impact—the fear that drones have instilled in the militants. The fact that the United States might strike day or night, inside the militant compound or outside while traveling in the convoys, works to deter militants and restrict their operations. This tilts the balance of power in favor of the United States.¶ Most of the people in the Pakistani Army whom I interviewed on the subject were positive about the drone strikes and their direct correlation with a decrease in terrorist attacks in Pakistan. The majority focused on the psychological impact of the drones and how they have put militants on the run, forcing them to sleep under trees at night, though it must be said that army officials showed some concern about cases in which the same psychological impact is experienced by civilians.¶ Locals I talked to are frustrated over the fear that they might get hit by a drone if the militants are hiding in their neighborhood. But this frustration may have a positive impact as it motivates civilians to flush out and close doors to militants who seek refuge in their areas.¶ Surprisingly, there isn’t as much anti-Americanism as one would suspect in areas where the United States is conducting drone strikes, largely because the locals are fed up with the influx of militants in their areas and have suffered because of terrorism. However, urban centers, which have suffered the least from terrorism, are far more radicalized and anti-American. Hence, we see large anti-drone rallies in the cities of Punjab, where people have little first-hand experience with drones. The anti-American lot in these places will start a rally for any reason at all as long as they get to burn a few American flags.

#### Drones are the best option and save civilian lives overall – new oversight not necessary

Meservey 12 (Josh, writing for Fletcher forum of world affairs at Tufts university, second year MALD candidate focusing on International Security. He is interested in non-state armed groups and counterinsurgency, particularly in Africa, November 16 “Drones: The Best Option We’ve Got” http://www.fletcherforum.org/2012/11/16/meservey/)

Moreover, the United States’ use of drones raises the troubling question of civilian casualties. A recent report released by the Stanford and New York University law schools concluded that the U.S. drone policy is “damaging and counterproductive,” in part because of its “harmful impacts” on Pakistani civilians. Beyond the obvious tragedy of the loss of human life, civilian deaths are also a serious blow to any counterinsurgency campaign; killing civilians is one of the quickest ways to alienate the very population whose loyalty is critical in defeating an insurgency. There is no doubt that drone strikes that kill innocent people in the Federally Administered Tribal Areas (FATA) make it easier for terrorist organizations to recruit there.¶ Despite these challenging realities, however, the U.S. must continue its drone strikes in the FATA, because ending them would mean the loss of the United States’ only effective weapon against the deadly array of armed groups that have clustered there. Remote, rugged, and notoriously inhospitable to governmental authority, the FATA serves as a conduit for anti-Coalition fighters into Afghanistan, a safe haven for al-Qaeda and the Afghan and Pakistani Talibans, a base for the Haqqani network, and a graveyard for thousands of Pakistani soldiers. The region presents an urgent national security problem for both the United States and Pakistan, but ultimately one that only the Pakistani government can fully solve, as the problems in the FATA are fundamentally political.¶ The government has long neglected the area, ruling it with colonial-era laws that have contributed to its current isolation. Until the Pakistani government incorporates the FATA into the broader Pakistani polity, it will remain welcoming territory for extremists. The government has taken a few hesitant steps toward the sorts of far-reaching, structural reforms necessary to erode the terrorists’ base of support, but they are insufficient.¶ Furthermore, while the Pakistani army has begun fighting the confusing tangle of terrorist organizations in the area, it has made only incremental progress. The Pakistani army is still largely a conventional force ill-suited to wage the sort of counterinsurgency campaign necessary, and questions remain over its dedication to the fight. For instance, its military intelligence branch, the ISI, has well-documented links with the Afghan Taliban currently sheltering in the FATA.¶ With the Pakistani government unable and perhaps unwilling to address the problem in the FATA, the U.S. is left with few options. It could suspend drone attacks and allow the FATA to function as a true safe haven, or it could launch a full-scale incursion into Pakistani territory. Neither of these choices is realistic or desirable, and no other solutions are readily apparent. Drones, then, are the best option.¶ Drones are an effective and useful tool for a place like the FATA. In the chaotic struggle within the area, drones are likely the most precise weapon ever used—in 2010, Amnesty International estimated that the fighting between the Pakistani army and militants killed 1,363 civilians, while the New America Foundation’s highest estimates for civilian deaths by drones in 2009 was 223. Drone strikes are now subjected to rigorous levels of oversight, and there has been a marked decline in civilian deaths in 2012, perhaps because General Petraeus, who recently resigned as Director of the CIA, literally wrote the book on counterinsurgency and understood the importance of not alienating the local population. In fact, if one were able to add up the number of civilians that would have been killed by the terrorists that have been killed by drone strikes in the FATA, drones almost certainly save civilian lives.¶ And frankly, drones are very good at what they do. The list of high-level terrorists that have been killed by drones gets longer and longer, and includes some truly violent individuals, such as al-Qaeda and Taliban bomb makers, WMD experts, and very senior leaders. There is simply no other tactic that has had anywhere near this level of success against high-level terrorist targets in the FATA.

#### Pakistan instability inevitable – economy, education, poor governance

Javaid ’11 (Umbreen, Director Center of Asian Studies & Chairperson Department of political science University of Punjab, “Thriving Fundamentalism and Militancy in Pakistan An Analytical Overview of their Impact on the Society,” South Asian Studies, Vol. 26 No. 1. Pg. 16-17)  
 ‘The recent increase of violence by jihadi groups, including suicide bombing of ¶ innocent bystanders as well attacks on the police and military, has perhaps brought ¶ more Pakistanis to consider how to strike a new balance between Islam and ¶ politics’ (Oldenburg, 2010: 158). ‘The Pakistani people also need to change their ¶ attitude, especially their outlook on religion. Suffered with anti-Americanism and ¶ religious fervor, Pakistanis are filtering their worldview through the prism of ¶ religion and the tensions between Islam and the West, making them to the radical ¶ propaganda and paralyzing their will to act against forces of extremism’ (Hussain, ¶ 2009: 11). mbreen Javaid Thriving Fundamentalism and ¶ 17¶ It is not only the task of the government to control this growing ¶ fundamentalism but the whole society needs to completely shun off these ¶ extremists. The political parties, intellectuals, sectarian and religious parties and ¶ the masses all have to openly condemn the extremists, so that they do not find any ¶ space to flourish. ‘Much still needs to be done on the home front curb religious ¶ zealotry and sectarianism, policies towards minorities, revision of school curricula, ¶ reconstructing ‘official’ history, promotion of universal education, and ¶ overhauling of the madrassah system’ (Niaz, 2011: 181). The best way to curtail the thriving fundamentalism in Pakistan is to look ¶ deeply into its causes. The whole society and especially the government needs to ¶ put in serious efforts in controlling on checking the causes if not diminishing ¶ them. It should also be understand that the issue of fundamentalism is very ¶ complex which entails number of factors which are playing their part. These ¶ include economic disparity, lack of education, religious ignorance, unemployment, ¶ extremism, judicial system, poor governance, ethnicity and sectarianism, ¶ corruption and alignment with United States, each of these have played their role ¶ separately and also a combined mix of all in flourishing militant fundamentalism ¶ in Pakistan. To control fundamentalism is not an easy task especially when it is ¶ now combined with militancy. Another major challenge for the government is that ¶ earlier the various militant extremist groups were operating separately and had ¶ divergent aims and objectives from each other but lately various local groups, AlQaeda and Taliban have all joined hands and helping each other irrespective of ¶ their particular objectives. These alignments have made these militant groups more ¶ lethal, thus making things more difficult for the government. ¶ Militant fundamentalism not only has the ability to destabilize Pakistan but it ¶ can, if not controlled, bring about serious security concerns for the region and also ¶ towards the global security and peace.

#### Pakistan instability inevitable – Afghan wars

Bruce Riedel, Senior Fellow, Foreign Policy, Saban Center for Middle East Policy, Center for 21st Century Security and Intelligence, Panel “THE BROOKINGS INSTITUTION¶ THE UNITED STATES, INDIA, AND PAKISTAN:¶ TO THE BRINK AND BACK,” Brookings, February 26, 2013.

MS. BROWN: How much has the war in Afghanistan been a bad thing ¶ for Pakistan? If you talk to certain people who are friendly towards Pakistan they say, ¶ well, so much of their turbulence and instability and terrorism has been caused by ¶ refugees coming from Afghanistan, radical elements coming from Afghanistan. Is there ¶ any truth in that?¶ MR. RIEDEL: There is, there's a lot of truth.¶ We see this as a war that's now 10 years old. Afghans and Pakistanis ¶ see this as a war that's 30 years old. If you look at it in those terms, Pakistan has ¶ suffered tremendously. The coalition across culture that dominates Pakistani cities today ¶ that makes places like Quetta or Karachi murder capitals of the world is a product of the ¶ spillover from all of these Afghan wars. Not just the current one, but all of these Afghan ¶ wars.

#### Terrorists aren’t pursuing nukes

**Wolfe 12 –** Alan Wolfe is Professor of Political Science at Boston College. He is also a Senior Fellow with the World Policy Institute at the New School University in New York. A contributing editor of The New Republic, The Wilson Quarterly, Commonwealth Magazine, and In Character, Professor Wolfe writes often for those publications as well as for Commonweal, The New York Times, Harper's, The Atlantic Monthly, The Washington Post, and other magazines and newspapers. March 27, 2012, "Fixated by “Nuclear Terror” or Just Paranoia?" [http://www.hlswatch.com/2012/03/27/fixated-by-“nuclear-terror”-or-just-paranoia-2/](http://www.hlswatch.com/2012/03/27/fixated-by-)

If one were to read the most recent unclassified report to Congress on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions, it does have a section on CBRN terrorism (note, not WMD terrorism). The intelligence community has a very toned down statement that says “several terrorist groups … probably remain interested in [CBRN] capabilities, but not necessarily in all four of those capabilities. … mostly focusing on low-level chemicals and toxins.” They’re talking about terrorists getting industrial chemicals and making ricin toxin, not nuclear weapons. And yes, Ms. Squassoni, it is primarily al Qaeda that the U.S. government worries about, no one else. The trend of worldwide terrorism continues to remain in the realm of conventional attacks. In 2010, there were more than 11,500 terrorist attacks, affecting about 50,000 victims including almost 13,200 deaths. None of them were caused by CBRN hazards. Of the 11,000 terrorist attacks in 2009, none were caused by CBRN hazards. Of the 11,800 terrorist attacks in 2008, none were caused by CBRN hazards.

**No successful detonation**

**Schneidmiller 9**(Chris, Experts Debate Threat of Nuclear, Biological Terrorism, 13 January 2009, http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php)

There is an "almost vanishinglysmall" likelihood that terrorists would ever be able to acquire and detonate a nuclear weapon, one expert said here yesterday (see GSN, Dec. 2, 2008). In even the most likely scenario of nuclear terrorism, there are 20 barriers between extremists and a successful nuclear strike on a major city, said John Mueller, a political science professor at Ohio State University. The process itself is seemingly straightforward but exceedingly difficult -- buy or steal highly enriched uranium, manufacture a weapon, take the bomb to the target site and blow itup. Meanwhile, variables strewn across the path to an attack would increase the complexity of the effort, Mueller argued. Terrorists would have to bribe officials in a state nuclear program to acquire the material, while avoiding a sting by authorities or a scam by the sellers. The material itself could also turn out to be bad. "Once the purloined material is purloined, [police are] going to be chasing after you. They are also going to put on a high reward, extremely high reward, on getting the weapon back or getting the fissile material back," Mueller said during a panel discussion at a two-day Cato Institute conference on counterterrorism issues facing the incoming Obama administration. Smuggling the material out of a country would mean relying on criminals who "are very good at extortion" and might have to be killed to avoid a double-cross, Mueller said. The terrorists would then have to find scientists and engineers willing to giveup their normal lives to manufacture a bomb, which would require an expensive and sophisticated machine shop. Finally, further technological expertise would be needed to sneak the weapon across national borders to its destination point and conduct a successful detonation, Mueller said. Every obstacle is "difficult but not impossible" to overcome, Mueller said, putting the chance of success at no less than one in three for each. The likelihood of successfully passing through each obstacle, in sequence, would be roughly one in 3 1/2 billion, he said, but for argument's sake dropped it to 3 1/2 million. "It's a total gamble. This is a very expensive and difficult thing to do," said Mueller, who addresses the issue at greater length in an upcoming book, *Atomic Obsession*. "So unlike buying a ticket to the lottery ... you're basically putting everything, including your life, at stake for a gamble that's maybe one in 3 1/2 million or 3 1/2 billion." Other scenarios are even less probable, Mueller said. A nuclear-armed state is "exceedingly unlikely" to hand a weapon to a terrorist group, he argued: "States just simply won't give it to somebody they can't control." Terrorists are also not likely tobe able to steala whole weapon, Mueller asserted, dismissingthe idea of "loose nukes." Even Pakistan, which today is perhaps the nation of greatest concern regarding nuclear security, keeps its bombs in two segments that are stored at different locations, he said (see *GSN*, Jan. 12). Fear of an "extremely improbable event" such as nuclear terrorism produces support for a wide range of homeland security activities, Mueller said. He argued that there has been a major and costly overreaction to the terrorism threat -- noting that the Sept. 11 attacks helped to precipitate the invasion of Iraq, which has led to far more deaths than the original event. Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue withthe finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occurin the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim**,** which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give anuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weaponor use one that has been stolen.

### Adv 2—Modeling

#### 1. No impact —aggressors don’t have the intel or experience to be capable of attack

Admiral Dennis Blair, Former Director of National Intelligence, “U.S. Drone Strike Policies: Speakers: Admiral Dennis Blair, Former Director of National Intelligence, and Micah Zenko, Douglas Dillon Fellow,” Conversation at CFR, January 22, 2013.

OPERATOR: Our next question comes from KT McFarland with Fox News.¶ QUESTIONER: Hi. Thank you very much for doing this.¶ Has anybody, either you or others, given thought to what happens next? I mean, the United States owns the drone wars now, but technology tends to only trump temporarily. What happens down the road five years from now when other countries get drones, other countries have the ability to target American diplomats traveling around in cars in rural Yemen? Are we -- are we -- have we really thought through what kind of a world it's going to be when we have proliferating drone powers?¶ BLAIR: I think that --¶ MASTERS: (Micah, you want ?) --¶ BLAIR: This is Dennis Blair again.¶ QUESTIONER: Hi, Dennis.¶ BLAIR: I think we've partly thought that -- thought that through, but this is a -- this is a familiar syndrome in the sort of military technology cycle. When a new weapons program comes in, it's often introduced by the more advanced countries, the high-tech ones, and -- who take full advantage of that while they can and don't worry too much about what happens when others -- when others get it.¶ When you -- when you think about it, there are a couple of things that make me believe that this -- when drones do proliferate, they will not be as effective weapons against us as we are able to use them against others right now.¶ One is that they are -- that they are very dependent on a -- on an intelligence system which is incredibly worldwide, complicated and expensive. It uses the entire U.S. global intelligence system. No other country can afford that. It's not just the -- it's not just the money; it's the years of practice it takes to do that.¶ The second one is that -- what I do fear the most, though, is that a terrorist -- and let me say I don't fear too much other nation- states that gain this capability. It's very -- you know if another country has it and is using it against you and then you can use the full -- the full array of both defensive systems and of retaliation to keep it from being used against you effectively.¶ I do fear that -- and if al-Qaida can develop a drone, its first thought will be to use it to kill our president, senior officials, senior military officers. And it's possible, without a great deal of intelligence, to be able to do something with a drone that you can't do with a -- with a high-speed -- with a high-powered rifle or with -- driving a car full of explosives or the other ways that terrorists now use to try to kill senior officials¶ And I think that there are ways to deal with that that -- but it -- and I also think that whether we use them or not -- the way in which we use them or not won't affect the zeal of terrorists groups to be able to get them and to be able to kill senior officials for all of the reasons that we are familiar with.¶ So I think this is not opening up a huge Pandora's box which will make us wish that we'd never invented the drone, but it will cause us to have to take some more defensive measures in the future.

#### 2. No prolif – no major prolif over next 10 years – too costly and not effective enough

Micah Zenko, Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). “Reforming U.S. Drone Strike Policies,” CPA at CFR, Council Special Report No. 65, January 2013.

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

#### 3. Expansion of drones is inevitable—Manufacturers want money and human operated aircraft aren’t being developed anymore

Right Vision News 2012

[Pakistani news agency, “Pakistan: 76 countries acquire drones, pose new threat to global security,” 03 Oct 2012, proquest, wyo-sc]

¶ Recently, in an unconfirmed report, it was alleged that Israel used a drone to strike and kill in the territory of Egypt. According to the research: "Reportedly, Iran has supplied the Assad regime (Syrian) with drones, which it has apparently already employed to conduct surveillance on the opposition."¶ Non-state organisations like Hezbollah, the report added, have also entered the fray, reportedly deploying an Iranian-designed drone; similarly the Free Syria Army also reportedly recently built a small armed drone.¶ Peter Singer of the Brookings Institution is quoted by the report to have observed: "I think of where the airplane was at the start of World War I: at first it was unarmed and limited to a handful of countries....¶ Then it was armed and everywhere. That is the path we're on."¶ It adds the drone manufacturers are heavily pushing their products internationally and into new markets, and global spending on drones is expected to total more than $94 billion over the next decade.¶ Indeed, there is not a single new manned combat aircraft under research and development at any major Western aerospace company, and the Air Force is training more operators of unmanned aerial systems than fighter and bomber pilots combined, the report added

#### Other countries won’t model the nature of our drones—they don’t have the intelligence or need for global strike capabilities

Roberts 2013 [Kristin, News Editor for *National Journal*, “When the Whole World Has Drones,” National Journal, 3/22/2013, Academic Search Premier, wyo-sc]

Other countries, groups, and even individuals can and do fly drones. But no state or group has nearly the sophisticated network of intelligence and data analysis that gives the United States its strategic advantage. Although it would be foolish to dismiss the notion that potential U.S. adversaries aspire to attain that type of war-from-afar, pinpoint-strike capability, they have neither the income nor the perceived need to do so.¶ 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."

### 2NC

#### US doesn’t set international norms

Admiral Dennis Blair, Former Director of National Intelligence, “U.S. Drone Strike Policies: Speakers: Admiral Dennis Blair, Former Director of National Intelligence, and Micah Zenko, Douglas Dillon Fellow,” Conversation at CFR, January 22, 2013.

ADMIRAL DENNIS BLAIR: Sure. I can -- I could start, Jon. Everybody had the advantage of reading Micah's report, which I -- which I think is very important, because it takes on a subject which, in my opinion, has -- needs public discussion.¶ If the United States is a -- is a democracy, we want our people to know how we use military force and that we do it in accordance with -- and in ways that the United States is -- can be proud of and that can be effective. And so -- and there's been far too little debate on it.¶ Let me make -- let me make three points, though, at which I -- at which I come to slightly different conclusions from Micah, and then I -- where I agree with him.¶ The first point is I'm less persuaded that international norms really have much of an effect when it comes to the use of force against the United States. My experience is that nation-states are generally either encouraged or deterred by their sort of cost-benefit calculation, and so I -- as other countries develop drones of their own, I think that they will make their own decisions on how they -- on how they use them, looking at the United States' experience but drawing on their own -- on their -- on their own interests and fears. I think that nonstate organizations, terrorist groups, extremist groups, are not deterrable, and they look at U.S. norms in order to find weaknesses in them, not to -- not to be led by them. And they -- if a terrorist group can get hold of drone technology, it will use it against us every way we can. So I'm not so much persuaded that norms can be set by the United States in this area.

#### Other countries won’t model the nature of our drones—they don’t have the intelligence or need for global strike capabilities

Roberts 2013 [Kristin, News Editor for *National Journal*, “When the Whole World Has Drones,” National Journal, 3/22/2013, Academic Search Premier, wyo-sc]

Other countries, groups, and even individuals can and do fly drones. But no state or group has nearly the sophisticated network of intelligence and data analysis that gives the United States its strategic advantage. Although it would be foolish to dismiss the notion that potential U.S. adversaries aspire to attain that type of war-from-afar, pinpoint-strike capability, they have neither the income nor the perceived need to do so.¶ 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."

### 1NC

#### Courts slow; don’t make emergency decisions any quicker

Ornstein et al, 11

[Norman J. Ornstein, Thomas E. Mann, ¶ John C. Fortier, and Jennifer K. Marsico, “THE CONTINUITY OF ¶ THE SUPREME COURT¶ THE THIRD REPORT OF THE CONTINUITY ¶ OF GOVERNMENT COMMISSION,”¶ October 2011, <http://www.aei.org/files/2011/10/19/Supreme-Court-Continuity.pdf> //uwyo-baj]

The Court’s Slow Timetable First, in ordinary times the Court does not typically move on a quick timetable. And even more relevant to the issues we are discussing, it is not obvious that the Court would need to act immediately in the midst of a national security crisis. For the presidency, the country needs an immediate answer to the question of who is acting as president after an attack. If the president is dead or grievously wounded, there must be a successor who can initiate immediate emergency actions in dealing with the aftermath of a catastrophe or strike back against foreign or domestic foes. For the legislative branch, the Continuity of Government Commission has argued the need for a reconstituted, fully functioning, legitimate Congress days after an attack. In the several days, weeks, and months after 9/11, Congress authorized military action in Afghanistan; appropriated funds for military, homeland security, and rebuilding; created new institutions and legal powers for transportation security; and passed the Patriot Act. Congress does not need to act minutes after an attack, but a reconstituted Congress is essential in the weeks and months after an attack. By contrast, an argument can be made that the Supreme Court is not as necessary for immediate action, even after an attack. The process of a typical court case reaching the Supreme Court is a long one. Ordinarily, when the Supreme Court agrees to hear a case, it is several months before oral arguments are made before the Court and several more months before the Court issues a decision. And this lengthy process does not include the course of cases in lower courts, which can add years to the time from when a case is first filed until the Supreme Court renders a judgment. Furthermore, many cases never reach the Supreme Court but are decided with finality by other federal courts. And even though there have often been some who push for Court action in the midst of an emergency, the Court has frequently decided these sorts of cases years later after the emergency has passed or receded. For example, a number of recent and older cases dealing with military commissions were decided years after initial detainment.

#### Courts historically inefficient

Hasen 13

[Richard L., a professor of law and political science at the University of California, Irvine, is author of The Voting Wars: From Florida 2000 to the Next Election Meltdown, “What’s Taking the Supreme Court So Long?” June 21, 2013, <http://www.thedailybeast.com/articles/2013/06/21/what-s-taking-the-supreme-court-so-long.html> //uwyo-baj]

With everyone anxiously awaiting potentially blockbuster decisions on issues from affirmative action to voting rights to same-sex marriage, it is easy to criticize the Supreme Court for being too slow. After all, Fisher, the affirmative-action case involving the University of Texas, was argued in Supreme Court back in October. By historical standards, the court is deciding very few cases: it issued 167 with opinions in the 1981 term, but is expected to decide only 77 this term. Why save all of the big calls for the end? Are the justices trying to create maximum suspense to get more attention?

#### **No internal enforcement abilities, Voting Rights prove**

Mears 13

[Bill, CNN Supreme Court Producer, “A summary of major upcoming Supreme Court decisions,” CNN, Wednesday, June 19, 2013, <http://www.cnn.com/2013/05/27/us/scotus-case-guide/index.html> //uwyo-baj]

AT ISSUE: The continued use by the federal government of the key enforcement provision of the landmark Voting Rights Act of 1965.¶ THE CASE: Section 5 gives federal authorities open-ended oversight of states and localities with a history of voter discrimination. Any changes in voting laws and procedures in the covered states must be "pre-cleared" with Washington.¶ THE ARGUMENTS: The provision was reauthorized in 2006 for another quarter-century, and counties in Alabama and North Carolina subsequently filed suit, saying the monitoring was overly burdensome and unwarranted. All or parts of 16 states are currently covered under the provision. Other states are not covered by the pre-clearance provision even if they, too, might discriminate against minority voters.¶ In a separate high court case from three years ago, the conservative majority suggested -- but never fully affirmed -- that the continued use of Section 5 may soon be nullified. "Things have changed in the South. Voter turnout and registration rates now approach parity," Chief Justice John Roberts wrote in 2009. "Past success alone, however, is not adequate justification to retain the pre-clearance requirements. The Act imposes current burdens and must be justified by current needs."¶ THE OUTCOME: The conservative majority again appears to have the votes to strike down or severely gut Section 5. The court could then encourage Congress and the Obama administration to fashion a new enforcement policy that would meet constitutional scrutiny.¶ THE IMPACT: The high court's decision to accept these appeals for a full review came in a presidential election year that incorporated newly redrawn voting boundaries, based on the updated census. This ruling would likely impact next year's mid-term elections.

#### The president won’t comply, creates interbranch strife

Druck 2012 (Judah A. Druck, B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013, “DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE,” Cornell Law Review, Vol. 98:209, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf)

By now, the general pattern concerning presidential treatment of¶ the WPR should be clear: when faced with a situation in which the¶ WPR should, by its own terms, come into play, presidents circumvent¶ its application by proffering questionable legal analyses. Yet, as was¶ frequently the case following the aforementioned presidential actions,¶ those looking to the courts for support were disappointed to learn¶ that the judiciary would be of little help. Indeed, congressional and¶ private litigants have similarly been unsuccessful in their efforts to¶ check potentially illegal presidential action.52¶ The suits arising out of possible WPR violations are well-documented53 and therefore only require a brief review. Generally, when¶ faced with a question concerning the legality of presidential military¶ action, courts have punted the issue using a number of procedural¶ tools to avoid ruling on the merits. For example, when twenty-nine¶ representatives filed suit after President Reagan’s possible WPR violation in El Salvador, the U.S. District Court for the District of Columbia¶ dismissed the suit on political question grounds.54 Similar suits were¶ dismissed for issues involving standing,55 mootness,56 ripeness,57 or¶ nonjusticiability because Congress could better handle fact-finding.58¶ Despite the varying grounds for dismissing WPR suits, a general theme¶ has emerged: absent action taken by Congress itself, the judiciary cannot be counted on to step in to check the President.¶ To be sure, the judiciary’s unwillingness to review cases arising¶ from WPR disputes arguably carries some merit. Two examples illus- trate this point. First, although a serviceperson ordered into combat¶ might have standing to sue, congressional standing is less clear.59 Indeed, debates rage throughout war powers literature concerning¶ whether congressional suits should even be heard on their merits.60¶ And though some courts have held that a member of Congress can¶ have standing when a President acts unilaterally, holding that such¶ unauthorized actions amount to “disenfranchisement,”61 subsequent¶ decisions and commentators have thrown the entire realm of legislative standing into doubt.62 Though the merits of this debate are beyond the scope of this Note, it is sufficient to emphasize that a¶ member of Congress arguably suffers an injury when a President violates the WPR because the presidential action prevents the congressperson from being able to vote (namely, on whether to authorize¶ hostilities),63 thereby amounting to disenfranchisement by¶ “preclu[ding] . . . a specific vote . . . by a presidential violation of¶ law . . . .”64 As such, under the right circumstances, perhaps the standing doctrine should not be as problematic as history seems to indicate¶ when a congressperson attempting to have a say on military action¶ brings a WPR suit.¶ Secondly, and perhaps more importantly, it is arguably unclear¶ what, if any, remedy is available to potential litigants. Unlike a private¶ lawsuit, where a court can impose a simple fine or jail sentence, suits¶ against the executive branch carry a myriad of practical issues. For¶ example, if the remedy is an injunction, issues concerning enforcement arise: Who enforces it and how?65 Or, if a court makes a declaratory judgment stating that the President has acted illegally, it might¶ invite open defiance, thereby creating unprecedented strife among¶ branches. Yet, a number of possible remedies are indeed available.¶ For one, courts could simply start the WPR clock, requiring a Presi- dent to either seek congressional approval or cease all actions within¶ the time remaining (depending on whether the court starts the clock¶ from the beginning or applies it retroactively).66 In doing so, a court¶ would trigger the WPR in the same way that Congress would have had¶ it acted alone. On a similar note, a court could declare the relevant¶ military conflict illegal under the WPR, thereby inviting Congress to¶ begin impeachment proceedings.67 Although both cases require¶ some level of congressional involvement, a court could at least begin¶ the process of providing a suitable remedy. Thus, the more questionable issues of standing and remedies should not (under the right circumstances) prevent a WPR suit from moving forward.

#### Lower courts will erode the ruling

Borochoff 2008(Elise Borochoff, JD 2010, Harvard Law, “Lower Court Compliance With Supreme Court Remands,” Lexis)

The traditional model of the United States legal system envisions the relationship between federal district courts, appeals courts, and the Supreme Court as strictly hierarchical. n13 The district courts constitute the base of the judicial pyramid, the appeals court the middle, and the Supreme Court its peak. n14 This model implies the Supreme Court issues the final edict in any area of law, and the lower levels of the judicial hierarchy simply implement Supreme Court policy. Consequently, early legal scholars focused their research solely on Supreme Court decision making, and assumed that both federal and state lower courts strictly obeyed the Supreme Court's rulings. n15 Supreme Court decisions were viewed as the reigning law of the land [\*856] and compliance was a foregone conclusion.¶ Under the hierarchal view of the federal judiciary, Supreme Court remands would not be an issue. Lower courts are faithful implementers of Supreme Court decisions and their decisions are an extension of the Supreme Court's legal views. Thus, all lower court decisions would comply with the Supreme Court, whether heard on remand or for the first time. B. Recognition of Noncompliance with the Supreme Court¶ Beginning in the 1950s, legal scholars began to doubt the hierarchical model's validity. n16 First, some articles noted that state courts would often rely on state law, effectively ignoring the Supreme Court's reasoning. n17 Others soon noted that even federal courts, while relying on federal law, also ignored Supreme Court decisions. n18 While authors did not openly criticize the hierarchical model, the increasing profile of noncompliance shed doubt on its accuracy. Implicit critiques of the hierarchical model became more explicit after the Warren Court's decisions in Brown v. Board of Education n19 and other controversial civil rights cases. n20 Noncompliance  [\*857]  with the Supreme Court's decisions undermined the model of the Supreme Court as an apolitical institution ruling over the entirety of the judicial branch.

#### Third, UNCHECKED WARMING WILL CRUSH CIVILIZATION, KILLING BILLIONS and turning econ, war, and terror.

**BROWN ‘97**

(Paul, Env. Correspondent for *The Guradian,* Global Warming Expert, Global Warming: Can Civilization Survive? Pg. 9-10)

The conclusion I come to is that there are two possible con- sequences of climate change. The first is what we could call the `nightmare scenario'. It runs something like this: Scientists have told us that global warming has already set in. This means that more and more extreme weather events become a feature of our lives. Droughts, floods, heatwaves, and sudden cold snaps damage homes and businesses. Agriculture is disrupted and world food supplies are inadequate. Mass migrations of near-starving people begin in Africa and the Middle East, bringing new wars. A large wave of bankruptcies in the industrialized world saps the economic ability of the so-called developed world to deal with the problem. There is a worldwide recession while politicians attempt to grapple with domestic problems and the root cause of the problem, the destruction of the environment, is not tackled. In the developing world the new industries which have dragged millions of people from the countryside into the cities lose their markets. The recessions throw millions out of work in countries that have no social security systems. Civil unrest and a few revolutions follow. The world begins to lapse into anarchy, making it impossible to deal with climate change. Meanwhile the gases we have already put into the atmosphere go on making things worse. The rising sea level means some of the most fertile and populous land is inundated, driving the survivors inland to find new homes. Deserts continue to expand; rainfall has become unreliable in marginal lands. Civilization breaks down and millions, possibly billions, die.