# 1NC

### 1NC

#### A1. Authority is not ability

Forsythe and Hendrickson 96

[David P. Forsythe, Professor and Chair of Political Science University of Nebraska-Lincoln, Ryan C. Hendrickson, Ph.D. Candidate University of Nebraska-Lincoln. “U.S. Use of Force Abroad: What Law for the President?” Presidential Studies Quarterly, Vol. 26, No. 4]

The crisis is most precisely about authority, not power. Authority, in the legal sense, concerns the right to do something. Power refers to the capability to do something. Part of the problems ¶ in the U.S. constitutional crisis over use of force abroad is that the president has the power to ¶ make war, and to obtain congressional deference most of the time, whatever the proper under ¶ standing of authority.

#### A2. Introducing armed forces only refers to human troops, not weapons systems like nukes

Lorber 13

Eric Lorber, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science. January 2013, "Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?" University of Pennsylvania Journal of Contsitutional Law, 15 U. Pa. J. Const. L. 961, lexis nexis

C. The War Powers Resolution as Applied to Offensive Cyber Operations As discussed above, critical to the application of the War Powers Resolution - especially in the context of an offensive cyber operation - are the definitions of key terms, particularly "armed forces," as the relevant provisions of the Act are only triggered if the President "introduc[es armed forces] into hostilities or into situations [of] imminent ... hostilities," n172 or if such forces are introduced "into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces." n173 The requirements may also be triggered if the United States deploys armed forces "in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation." n174 As is evident, the definition of "armed forces" is crucial to deciphering whether the WPR applies in a particular circumstance to provide congressional leverage over executive actions. The definition of "hostilities," which has garnered the majority of scholarly and political attention, n175 particularly in the recent Libyan conflict, n176 will be dealt with secondarily here because it only becomes important if "armed forces" exist in the situation. ¶ As is **evident from a** textual analysis, n177 an examination of the legislative history, n178 and **the broad** policy purposes behind the creation of the Act, n179 [\*990] "armed forces" refers to U.S. soldiers and members of the armed forces, not weapon systems or capabilities such as offensive cyber weapons. Section 1547 does not specifically define "armed forces," but it states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government." n180 While this definition pertains to the broader phrase "introduction of armed forces," the clear implication is that **only members of the armed forces count for the purposes of the definition under the WPR.** Though not dispositive, **the term "member" connotes a human individual who is part of an organization.** n181 Thus, it appears that the term "armed forces" means human members of the United States armed forces. However, there exist two potential complications with this reading. First, the language of the statute states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces." n182 By using inclusionary - as opposed to exclusionary - language, one might argue that the term "armed forces" could include more than members. This argument is unconvincing however, given that a core principle of statutory interpretation, expressio unius, suggests that **expression of one thing (i.e., members) implies the exclusion of others (**such as non-members **constituting armed forces)**. n183 Second, the term "member" does not explicitly reference "humans," and so could arguably refer to individual units and beings that are part of a larger whole (e.g., wolves can be members of a pack). As a result, though a textual analysis suggests that "armed forces" refers to human members of the armed forces, such a conclusion is not determinative.¶ **An examination of the legislative history also suggests that Congress clearly conceptualized "armed forces" as human members of the armed forces**. For example, disputes over the term "armed forces" revolved around who could be considered members of the armed forces, not what constituted a member. Senator Thomas Eagleton, one of the Resolution's architects, proposed an amendment during the process providing that the Resolution cover military officers on loan to a civilian agency (such as the Central [\*991] Intelligence Agency). n184 This amendment was dropped after encountering pushback, n185 but the debate revolved around whether those military individuals on loan to the civilian agency were still members of the armed forces for the purposes of the WPR, suggesting that Congress considered the term to apply only to soldiers in the armed forces. Further, during the congressional hearings, the question of deployment of "armed forces" centered primarily on past U.S. deployment of troops to combat zones, n186 suggesting that **Congress conceptualized "armed forces" to mean U.S. combat troops.**¶ **The broad purpose of the Resolution aimed to prevent the large-scale but unauthorized deployments of U.S. troops into hostilities**. n187 While examining the broad purpose of a legislative act is increasingly relied upon only after examining the text and legislative history, here it provides further support for those two alternate interpretive sources. n188 As one scholar has noted, "the War Powers Resolution, for example, is concerned with sending U.S. troops into harm's way." n189 The historical context of the War Powers Resolution is also important in determining its broad purpose; as the resolutions submitted during the Vietnam War and in the lead-up to the passage of the WPR suggest, Congress was concerned about its ability to effectively regulate the President's deployments of large numbers of U.S. troops to Southeast Asia, n190 as well as prevent the President from authorizing troop incursions into countries in that region. n191 The WPR was a reaction to the President's continued deployments of these troops into combat zones, and as such suggests that Congress's broad purpose was to prevent the unconstrained deployment of U.S. personnel, not weapons, into hostilities.¶ This analysis suggests that, when defining the term "armed forces," Congress meant members of the armed forces who would be placed in [\*992] harm's way (i.e., into hostilities or imminent hostilities). **Applied to offensive cyber operations, such a definition leads to the conclusion that the** W**ar** P**owers** R**esolution likely does not cover such activities**. Worms, viruses, and kill switches are clearly not U.S. troops. Therefore, the key question regarding whether the WPR can govern cyber operations is not whether the operation is conducted independently or as part of a kinetic military operation. Rather, the key question is the delivery mechanism. For example, if military forces were deployed to launch the cyberattack, such an activity, if it were related to imminent hostilities with a foreign country, could trigger the WPR. This seems unlikely, however, for two reasons. First, it is unclear whether small-scale deployments where the soldiers are not participating or under threat of harm constitute the introduction of armed forces into hostilities under the War Powers Resolution. n192 Thus, **individual operators deployed to plant viruses in particular enemy systems may not constitute armed forces introduced into hostilities or imminent hostilities.** Second, such a tactical approach seems unlikely. If the target system is remote access, the military can attack it without placing personnel in harm's way. n193 If it is close access, there exist many other effective ways to target such systems. n194 As a result, unless U.S. troops are introduced into hostilities or imminent hostilities while deploying offensive cyber capabilities - which is highly unlikely - such operations will not trigger the War Powers Resolution.

#### Violations

#### B1. NFU is not presidential authority

Schultz 2004 PREEMPTING PREEMPTION: NUCLEAR FIRST-USE AND THE ROLE OF CONGRESS JEFFREY L. SCHULTZ Mr. Schultz is an associate at Armstrong Teasdale LLP in St. Louis. Schultz is engaged in the practice of business litigation, with significant experience in trade secret, non-compete, unfair competition and intellectual property matters Kennedy School Review;2004, Vol. 5, p27

Under uninterrupted constitutional practice since the use of the first nuclear weapons by the United States against Japan in the closing days of World War II, Congress has demonstrated that it has the authority to pass the affirmative legislation necessary to control nuclear first use. Even if Congress chooses not to impose a legislative straitjacket,45 the president alone does not have sufficient authority to make first-use of nuclear weapons absent some congressional approval.46 The wisdom of Congress’s reticence in declaring war from the standpoint of its own institutional prerogatives is clear. According to the Constitution, the power to attack first requires that one also be able to declare war—a power belonging exclusively to Congress under the express language of the document, as we have seen. But if the president can argue that we are already in a war, such as an ongoing “War on Terror” in the aftermath of the Iraq War, for which he received Congress’s blessing, then he can claim expansive independent powers in the prosecution of such a war, including the choice of weapons and tactics. In such a “zone of twilight,” only an act of Congress—such as the recently repealed ban on “mini-nukes” and bunker-busters—can tilt the constitutional balance clearly in its favor. If Congress wishes to force the president to consult prior to launching a nuclear preemptive strike, it had better say so by means of legislation.

#### B2. Intro of forces is not nuclear weapons

Forrester ’89 (Professor, Hastings College of the Law, University of California. Former dean of the law schools at Vanderbilt, Tulane, and Cornell) Ray 57 Geo. Wash. L. Rev. 1636

Even if the Court assumed its responsibility to tell us whether the Constitution gives Congress the necessary power to check the President, the War Powers Resolution itself is unclear. Does the Resolution require the President to consult with Congress before launching a nuclear attack? It has been asserted that "introducing United States Armed Forces into hostilities" refers only to military personnel and does not include the launching of nuclear missiles alone. In support of this interpretation, it has been argued that Congress was concerned about the human losses in Vietnam and in other presidential wars, rather than about the weaponry.

#### B3. Introduction/Hostilities doublebind. Escalation to nuclear weapons from a conventional conflict is NOT “Introduction” of forces—its augmentation of forces. Bolt from the Blue first strike is NOT hostilities, because no US forces will be at risk, since first strike begins and ends the war, hence no on-going hostilities. Extra T is voter as it dejustifies the resolution.

#### C. Standards

#### Ground. Their interp explodes the resolution to mean any weapons system, restrictions on asserted authority. That crushes neg predictability.

#### Topic education. Our interp ensures a narrow but robust debate on war powers, ensuring indepth topic education, which outweighs aff whines for creativity.

#### Precision. Our interp is evidence by topic specific ev, not generic definitions that define words

#### T is a voter for ground and topic education.

### 1nc

The President of the United States should issue a presidential directive announcing that the United States will not introduce nuclear weapons forces first into hostilities.

#### Solves the case

Rebeccah Heinrichs and Baker Spring 11-30-2012; Rebeccah Heinrichs is a Visiting Fellow and Baker Spring is F. M. Kirby Research Fellow in National Security Policy in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation. “Deterrence and Nuclear Targeting in the 21st Century”

<http://www.heritage.org/research/reports/2012/11/deterrence-and-nuclear-targeting-in-the-21st-century>

Principles for Contemporary Targeting Policy Nuclear targeting policy is ultimately established through presidential guidance, which typically takes the form of a directive. Meeting the demands of this guidance, more than anything else, determines the overall size and structure of the U.S. nuclear force. According to a recent report from the Government Accountability Office (GAO), the current guidance was issued in 2002, although new presidential guidance may be issued as soon as later this year.[24 ] Following the application of more detailed guidance from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, Strategic Command produces the Nuclear Forces Employment Plan. Given the overall structure of this process, presidential guidance has the potential to do enormous damage to U.S. national security if it is conceptually flawed.

### 1NC

#### Iran sanctions are at the top of the docket – Obama is spending capital to persuade Democrats to sustain a veto

Lobe, 12-27

Reporter for Inter Press Service(Jim, “Iran sanctions bill: Big test of Israel lobby power”

<http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046>)

WASHINGTON - This week’s introduction by a bipartisan group of 26 senators of a new sanctions bill against Iran could result in the biggest test of the political clout of the Israel lobby here in decades.¶ The White House, which says the bill could well derail ongoing negotiations between Iran and the U.S. and five other powers over Tehran’s nuclear program and destroy the international coalition behind the existing sanctions regime, has already warned that it will veto the bill if it passes Congress in its present form.¶ The new bill, co-sponsored by two of Congress’s biggest beneficiaries of campaign contributions by political action committees closely linked to the powerful American Israel Public Affairs Committee (AIPAC), would impose sweeping new sanctions against Tehran if it fails either to comply with the interim deal it struck last month in Geneva with the P5+1 (U.S., Britain, France, Russia, China plus Germany) or reach a comprehensive accord with the great powers within one year.¶ To be acceptable, however, such an accord, according to the bill, would require Iran to effectively dismantle virtually its entire nuclear program, including any enrichment of uranium on its own soil, as demanded by Israeli Prime Minister Benjamin Netanyahu.¶ The government of President Hassan Rouhani has warned repeatedly that such a demand is a deal-breaker, and even Secretary of State John Kerry has said that a zero-enrichment position is a non-starter.¶ The bill, the Nuclear Weapon Free Iran Act, also calls for Washington to provide military and other support to Israel if its government “is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program.”¶ The introduction of the bill last week by Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez followed unsuccessful efforts by both men to get some sanctions legislation passed since the Geneva accord was signed Nov. 24.¶ Kirk at first tried to move legislation that would have imposed new sanctions immediately in direct contradiction to a pledge by the P5+1 in the Geneva accord to forgo any new sanctions for the six-month life of the agreement in exchange for, among other things, enhanced international inspections of Iran’s nuclear facilities and a freeze on most of its nuclear program.¶ Unable to make headway, Kirk then worked with Menendez to draw up the new bill which, because of its prospective application, would not, according to them, violate the agreement. They had initially planned to attach it to a defense bill before the holiday recess. But the Democratic leadership, which controls the calendar, refused to go along.¶ Their hope now is to pass it – either as a free-standing measure or as an amendment to another must-pass bill after Congress reconvenes Jan. 6.¶ To highlight its bipartisan support, the two sponsors gathered a dozen other senators from each party to co-sponsor it.¶ Republicans, many of whom reflexively oppose President Barack Obama’s positions on any issue and whose core constituencies include Christian Zionists, are almost certain to support the bill by an overwhelming margin. If the bill gets to the floor, the main battle will thus take place within the Democratic majority.¶ The latter find themselves torn between, on the one hand, their loyalty to Obama and their fear that new sanctions will indeed derail negotiations and thus make war more likely, and, on the other, their general antipathy for Iran and the influence exerted by AIPAC and associated groups as a result of the questionable perception that Israel’s security is uppermost in the minds of Jewish voters and campaign contributors (who, by some estimates, provide as much as 40 percent of political donations to Democrats in national campaigns).¶ The administration clearly hopes the Democratic leadership will prevent the bill from coming to a vote, but, if it does, persuading most of the Democrats who have already endorsed the bill to change their minds will be an uphill fight. If the bill passes, the administration will have to muster 34 senators of the 100 senators to sustain a veto – a difficult but not impossible task, according to Congressional sources.¶ That battle has already been joined. Against the 13 Democratic senators who signed onto the Kirk-Menendez bill, 10 Democratic Senate committee chairs urged Majority Leader Harry Reid, who controls the upper chamber’s calendar, to forestall any new sanctions legislation.

#### Obama’s strategy is working but failure scuttles the nuclear deal

Merry 1-1

Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy (Robert, “Obama may buck the Israel lobby on Iran” Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.”¶ For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House.¶ With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto.¶ It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement.¶ However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control.¶ Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.”¶ While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.”¶ That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars.¶ That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.¶ 2014 will mark the 100th anniversary of beginning of World War I, a conflict triggered by entangling alliances that essentially gave the rulers of the Hapsburg Empire power that forced nation after nation into a war they didn’t want and cost the world as many as 20 million lives. Historians have warned since of the danger of nations delegating the power to take their people into war to other nations with very different interests.¶ AIPAC’s political power is substantial, but this is Washington power, the product of substantial campaign contributions and threats posed to re-election prospects. According to the Center for Responsive Politics’ Open Secrets website, Sens. Kirk, Menendez and Schumer each receives hundreds of thousands of dollars a year in pro-Israel PAC money and each of their states includes concentrations of pro-Israel voters who help elect and re-elect them.¶ Elsewhere in the country, AIPAC’s Washington power will collide with the country’s clear and powerful political sentiment against further U.S. adventurism in the Middle East, particularly one as fraught with as much danger and unintended consequence as a war with Iran. If the issue gets joined, as it appears that it will, Mr. Obama will see that it gets joined as a matter of war and peace. If the Menendez-Schumer-Kirk legislation clears Congress and faces a presidential veto, the war-and-peace issue could galvanize the American people as seldom before.¶ If that happens, the strongly held opinions of a democratic public are liable to overwhelm the mechanisms of Washington power, and the vaunted influence of the Israel lobby may be seen as being not quite what it has been cracked up to be.

#### The plan causes an inter-branch fight – saps PC and derails his agenda

Kriner 10

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea." While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6° In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failedperhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq. When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### That causes a US-Iran war and Iranian prolif

WORLD TRIBUNE 11-13

[Obama said to suspend Iran sanctions without informing Congress, http://www.worldtribune.com/2013/11/13/obama-said-to-suspend-iran-sanctions-without-informing-congress/]

The administration has also pressured Congress to suspend plans for new sanctions legislation against Iran. The sources said the White House effort has encountered resistance from both Democrats and Republicans, particularly those in the defense and foreign affairs committees.¶ “I urge the White House and the Senate to learn from the lessons of the past and not offer sanctions relief in return for the false hopes and empty promises of the Iranian regime,” Rep. Ileana Ros-Lehtinen, chairwoman of the House Middle East and North Africa Subcommittee, said. “Instead, new rounds of sanctions must be implemented to gain further leverage because any misstep in calculations at this juncture will have devastating and irreversible consequences that will be difficult to correct retroactively.”¶ On Nov. 12, the White House warned that additional sanctions on Iran would mean war with the United States. White House press secretary Jay Carney, in remarks meant to intensify pressure on Congress, said sanctions would end the prospect of any diplomatic solution to Iran’s crisis. ¶ “The American people do not want a march to war,” Carney said. “It is important to understand that if pursuing a resolution diplomatically is disallowed or ruled out, what options then do we and our allies have to prevent Iran from acquiring a nuclear weapon?”¶ Still, the Senate Banking Committee has agreed to delay any vote on sanctions legislation until a briefing by Secretary of State John Kerry on Nov. 13. The sources said Kerry was expected to brief the committee on the P5+1 talks in Geneva that almost led to an agreement with Teheran.¶ “The secretary will be clear that putting new sanctions in place would be a mistake,” State Department spokeswoman Jen Psaki said on Nov. 12. “We are still determining if there’s a diplomatic path forward. What we are asking for right now is a pause, a temporary pause, in sanctions.”

#### Iran war escalates

White 11

July/August 2011 (Jeffrey—defense fellow at the Washington Institute for Near East Policy, What Would War With Iran Look Like, National Interest, p. http://www.the-american-interest.com/article-bd.cfm?piece=982)

A U.S.-Iranian war would probably not be fought by the United States and Iran alone. Each would have partners or allies, both willing and not-so-willing. Pre-conflict commitments, longstanding relationships, the course of operations and other factors would place the United States and Iran at the center of more or less structured coalitions of the marginally willing. A Western coalition could consist of the United States and most of its traditional allies (but very likely not Turkey, based on the evolution of Turkish politics) in addition to some Persian Gulf states, Jordan and perhaps Egypt, depending on where its revolution takes it. Much would depend on whether U.S. leaders could persuade others to go along, which would mean convincing them that U.S. forces could shield them from Iranian and Iranian-proxy retaliation, or at least substantially weaken its effects. Coalition warfare would present a number of challenges to the U.S. government. Overall, it would lend legitimacy to the action, but it would also constrict U.S. freedom of action, perhaps by limiting the scope and intensity of military operations. There would thus be tension between the desire for a small coalition of the capable for operational and security purposes and a broader coalition that would include marginally useful allies to maximize legitimacy. The U.S. administration would probably not welcome Israeli participation. But if Israel were directly attacked by Iran or its allies, Washington would find it difficult to keep Israel out—as it did during the 1991 Gulf War. That would complicate the U.S. ability to manage its coalition, although it would not necessarily break it apart. Iranian diplomacy and information operations would seek to exploit Israeli participation to the fullest. Iran would have its own coalition. Hizballah in particular could act at Iran’s behest both by attacking Israel directly and by using its asymmetric and irregular warfare capabilities to expand the conflict and complicate the maintenance of the U.S. coalition. The escalation of the Hizballah-Israel conflict could draw in Syria and Hamas; Hamas in particular could feel compelled to respond to an Iranian request for assistance. Some or all of these satellite actors might choose to leave Iran to its fate, especially if initial U.S. strikes seemed devastating to the point of decisive. But their involvement would spread the conflict to the entire eastern Mediterranean and perhaps beyond, complicating both U.S. military operations and coalition diplomacy.

### 1NC

#### Restrictions on executive war powers DO NOTHING for the state of political legal exception we live in and only gives further justification for violent intervention on the basis of legality

Dyzenhaus 05

(David, is a professor of Law and Philosophy at the University of Toronto, and a Fellow of the Royal Society of Canada, “Schmitt v. Dicey: Are States of Emergency Inside or Outside the Legal Order?” Cardozo Law Review 27)

Rossiter had in mind Lincoln's actions during the Civil War, including the proclamation by which Lincoln, without the prior authority of Congress, suspended habeas corpus. n35 Lincoln, he said, subscribed to a theory that in a time of emergency, the President could assume whatever legislative, executive, and judicial powers he thought necessary to preserve the nation, and could in the process break the "fundamental laws of the nation, if such a step were unavoidable." n36 This power included one ratified by the Supreme Court: "an almost unrestrained power to act toward insurrectionary citizens as if they were enemies of the United States, and thus place them outside the protection of the Constitution." Rossiter's difficulties here illustrate rather than solve the tensions inherent in the idea of constitutional dictatorship. On the one hand, he wants to assert that emergency rule in a liberal democracy can be constitutional in nature. "Constitutional" implies restraints and limits in accordance not only with law, but with fundamental laws. These laws are not the constitution that is in place for ordinary times; rather, they are the laws that govern the management of exceptional times - the eleven criteria that he developed for constitutional dictatorship. The criteria are either put within the discretion of the dictator - they are judgments about necessity - or are couched as limits that should be enshrined either in the constitution or in legislation. However, Rossiter does not properly address the fact that judgments about necessity are for the dictator to make, which means that these criteria are not limits or constraints but merely factors about which the dictator will have to decide. Other criteria look more like genuine limits. Moreover, they are limits that could be constitutionally enshrined - for example, the second criterion, which requires that the person who makes the decision that there is an emergency should not be the person who assumes dictatorial powers. Yet, as we have seen, Rossiter's foremost example of the modern constitutional dictator, Lincoln, not only gave himself dictatorial powers but, Rossiter supposes, had no choice but to do this. Moreover, if these criteria are constitutionally enshrined, so that part of the constitution is devoted to the rules that govern the time when the rest of the constitution might be suspended, they still form part of the constitution. So, no less than the ordinary constitution, what we can think of as the exceptional or emergency constitution - the constitution that governs the state of emergency - is subject to suspension should the dictator deem this necessary. This explains why, on the other hand, Rossiter equated emergency rule with potentially unlimited dictatorship, with Locke's idea of prerogative. And Rossiter said, "whatever the theory, in moments of extreme national emergency the facts have always been with ... John Locke." So Rossiter at one and the same time sees constitutional dictatorship as unconstrained in nature and as constrainable by principles - his eleven criteria. The upshot is that "constitutional" turns out not to mean what we usually take it to mean; rather, it is a misleading name for the hope that the person who assumes dictatorial powers does so because of a good faith evaluation that this is really necessary and with the honest and steadfast intention to return to the ordinary way of doing things as soon as possible. Giorgio Agamben is thus right to remark that the bid by modern theorists of constitutional dictatorship to rely on the tradition of Roman dictatorship is misleading. n39 They rely on that tradition in an effort to show that dictatorship is constitutional or law-governed. But in fact they show that dictatorship is in principle absolute - the dictator is subject to whatever limits he deems necessary, which means to no limits at all. As H.L.A. Hart described the sovereign within the tradition of legal positivism, the dictator is an uncommanded commander. n40 He [\*2015] operates within a black hole, in Agamben's words, "an emptiness of law." n41 Agamben thus suggests that the real analogue to the contemporary state of emergency is not the Roman dictatorship but the institution of iustitium, in which the law is used to produce a "juridical void" - a total suspension of law. n42 And in coming to this conclusion, Agamben sides with Carl Schmitt, his principal interlocutor in his book. However, it is important to see that Schmitt's understanding of the state of exception is not quite a legal black hole, a juridically produced void. Rather, it is a space beyond law, a space which is revealed when law recedes, leaving the state, represented by the sovereign, to act. In substance, there might seem to be little difference between a legal black hole and space beyond law since neither is controlled by the rule of law. But there is a difference in that nearly all liberal legal theorists find the idea of a space beyond law antithetical, even if they suppose that law can be used to produce a legal void. This is so especially if such theorists want to claim for the sake of legitimacy that law is playing a role, even if it is the case that the role law plays is to suspend the rule of law. Schmitt would have regarded such claims as an attempt to cling to the wreckage of liberal conceptions of the rule of law brought about by any attempt to respond to emergencies through the law. They represent a vain effort to banish the exception from legal order. Because liberals cannot countenance the idea of politics uncontrolled by law, they place a veneer of legality on the political, which allows the executive to do what it wants while claiming the legitimacy of the rule of law. We have seen that Rossiter presents a prominent example which supports Schmitt's view, and as I will now show, it is a depressing fact that much recent post 9/11 work on emergencies is also supportive of Schmitt's view. II. Responding to 9/11 For example, Bruce Ackerman in his essay, The Emergency Constitution, n43 starts by claiming that we need "new constitutional concepts" in order to avoid the downward spiral in protection of civil liberties that occurs when politicians enact laws that become increasingly repressive with each new terrorist attack. n44 We need, he says, to rescue the concept of "emergency powers ... from fascist thinkers like Carl Schmitt, who used it as a battering ram against liberal [\*2016] democracy." n45 Because Ackerman does not think that judges are likely to do, or can do, better than they have in the past at containing the executive during an emergency, he proposes mainly the creative design of constitutional checks and balances to ensure, as did the Roman dictatorship, against the normalization of the state of emergency. Judges should not be regarded as "miraculous saviors of our threatened heritage of freedom." n46 Hence, it is better to rely on a system of political incentives and disincentives, a "political economy" that will prevent abuse of emergency powers. He calls his first device the "supramajoritarian escalator" n48 - basically the requirement that a declaration of a state of emergency requires legislative endorsement within a very short time, and thereafter has to be renewed at short intervals, with each renewal requiring the approval of a larger majority of legislators. The idea is that it will become increasingly easy with time for even a small minority of legislators to bring the emergency to an end, thus decreasing the opportunities for executive abuse of power. n49 The second device requires the executive to share security intelligence with legislative committees and that a majority of the seats on these committees belong to the opposition party. Ackerman does see some role for courts. They will have a macro role should the executive flout the constitutional devices. While he recognizes both that the executive might simply assert the necessity to suspend the emergency constitution and that this assertion might enjoy popular support, he supposes that if the courts declare that the executive is violating the constitution, this will give the public pause and thus will decrease incentives on the executive to evade the constitution. n51 In addition, the courts will have a micro role in supervising what he regards as the inevitable process of detaining suspects without trial for the period of the emergency. Suspects should be brought to court and some explanation should be given of the grounds of their detention, not so that they can contest it - a matter which Ackerman does not regard as practicable - but in order both to give the suspects a public identity so that they do not disappear and to provide a basis for compensation once the emergency is over in case the executive turns out to have fabricated [\*2017] its reasons. He also wishes to maintain a constitutional prohibition on torture, which he thinks can be enforced by requiring regular visits by lawyers. Not only is the judicial role limited, but it is clear that Ackerman does not see the courts as having much to do with preventing a period of "sheer lawlessness." n53 Even within the section on the judiciary, he says that the real restraint on the executive will be the knowledge that the supramajoritarian escalator might bring the emergency to an end, whereupon the detainees will be released if there is no hard evidence to justify detaining them. In sum, according to Ackerman, judges have at best a minimal role to play during a state of emergency. We cannot really escape from the fact that a state of emergency is a legally created black hole, a lawless void. It is subject to external constraints, controls on the executive located at the constitutional level and policed by the legislature. But internally, the rule of law does next to no work; all that we can reasonably hope for is decency. But once one has conceded that internally a state of emergency is more or less a legal black hole because the rule of law, as policed by judges, has no or little purchase, it becomes difficult to understand how external legal constraints, the constitutionally entrenched devices, can play the role Ackerman sets out. Recall that Ackerman accepts that the reason we should not give judges more than a minimal role is the history of judicial failure to uphold the rule of law during emergencies in the face of executive assertions of a necessity to operate outside of law's rule. For that reason, he constructs a political economy to constrain emergency powers. But that political economy still has to be located in law in order to be enforceable, which means that Ackerman cannot help but rely on judges. But why should we accept his claim that we can rely on judges when the executive asserts the necessity of suspending the exceptional constitution, the constitution for the state of emergency, when one of his premises is that we cannot so rely? Far from rescuing the concept of emergency powers from Schmitt, Ackerman's devices for an emergency constitution, an attempt to update Rossiter's model of constitutional dictatorship, fails for the same reasons that Rossiter's model fails. Even as they attempt to respond to Schmitt's challenge, they seem to prove the claim that Schmitt made in late Weimar that law cannot effectively enshrine a distinction between constitutional dictatorship and dictatorship. They appear to be vain attempts to find a role for law while at the same time conceding that law has no role. Of course, this last claim trades on an ambiguity in the idea of the rule of law between, on the one hand, the rule of law, understood as the rule of substantive principles, and, on the other, rule by law, where as long as there is a legal warrant for what government does, government will be considered to be in compliance with the rule of law. Only if one holds to a fairly substantive or thick conception of the rule of law will one think that there is a point on a continuum of legality where rule by law ceases to be in accordance with the rule of law. Ackerman's argument for rule by law, by the law of the emergency constitution, might not answer Schmitt's challenge. But at least it attempts to avoid dignifying the legal void with the title of rule of law, even as it tries to use law to govern what it deems ungovernable by law. The same cannot be said of those responses to 9/11 that seem to suggest that legal black holes are not in tension with the rule of law, as long as they are properly created. While it is relatively rare to find a position that articulates so stark a view, it is quite common to find positions that are comfortable with grey holes, as long as these are properly created. A grey hole is a legal space in which there are some legal constraints on executive action - it is not a lawless void - but the constraints are so insubstantial that they pretty well permit government to do as it pleases. And since such grey holes permit government to have its cake and eat it too, to seem to be governing not only by law but in accordance with the rule of law, they and their endorsement by judges and academics might be even more dangerous from the perspective of the substantive conception of the rule of law than true black holes.

#### Our alternative is to recognize the necessity of the opposition. Sovereignty necessarily functions in exception to the law. This exception is necessary to avoid the universal violence of the Law and the affirmative.

Rasch 2k

(William. "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics." Theory Culture Society 17.1)

It is not difficult to see that the polemical elevation of sovereignty over the rule of law replicates a lively historical opposition, one that can be perhaps best evoked by that happy pair, Hobbes and Locke. Within the liberal tradition, the rule of law invokes reason and calculability in its battles against the arbitrary and potentially despotic whim of an unrestrained sovereign. The legitimacy of the sovereign is thus replaced by a legality that claims to provide its own immanent and unforced legitimacy. Predictable and universally accessible reason - the normative validity of an "uncorked consensus", to use the words of a prominent modern exponent - gently usurps, so it is claimed, the place that would otherwise be occupied by a cynical, pragmatic utilitarianism and the tyranny of a dark, incalculable will. The rule of law brings all the comforts of an uncontroversial, rule-based, normative security as if legality preceded by way of simple logical derivation, abolishing above all the necessity of decisions. Schmitt clearly will have none of this and in various writings attempts to expose what he considers to be the two-fold fallacy of the liberal position. As we have seen, if taken at its word, legality, or the rule of law, is seen by Schmitt to be impotent; it can neither legitimize nor effectively defend itself against determined enemies in times of crisis. Were law truly the opposite of force, it would cease to exist. But this self-description is deceptive, for if judged by its deeds, the same liberal regime that enunciates the self-evidence validity of universal norms strives to enact a universal consensus that is, indeed, far from uncorked. The rule of law inevitably reveals itself, precisely during moments of crisis, as the force of law, perhaps, not every bit as violent and "irrational" as the arbitrary tyrant, but nonetheless compelling and irresistible - indeed, necessarily so. Thus, Schmitt would argue the distinction between "decision", "force" and sovereignty", on the one hand, and the "rule of law", on the other, is based on a blithe and simple illusion. What agitates Schmitt is not the force, but the deception. More precisely, what agitates Schmitt is what he perceives to be the elimination of politics in the name of a higher legal or moral order. In its claim to a universal, normative, rule-bound validity, the liberal sleight-of-hand reveals itself to be not the opposite of force, but a force that outlaws opposition. In resurrecting the notion of sovereignty, therefore, Schmitt sees himself as one who rescues a legitimate notion of politics. Of course, this rescue attempt is itself political, a battle over the correct definition of politics. That is, we are not merely dealing with a logical problem, and not merely dealing with a desire to provide constitutional mechanisms that would prevent the self-dissolution of the constitution. Rather, we are dealing with a contest between a particularist notion of politics, in which individual conflicts can be resolved, but in which antagonism as a structure and reservoir of possible future conflicts is never destroyed, versus politics as the historical unfolding and pacific expansion of the universal morality. To evoke the long shadows of an ongoing contemporary debate, we are dealing with the difference between a politics of dissensus and a politics of consensus. Whereas the latter ideology entails an explicit or implicit belief in the "highest good" that can be rationally discerned and achieved, a "right regime", to use Leo Strauss's term, or the "just society" that hopes to actualize aspects of the City of God here on earth, the former stresses the necessity of determining a workable order where no single order bears the mantle of necessity, in fact, where all order is contingent, hence imperfect, and thus seeks to make the best of an inherently contradictory world by erecting structures that minimize self-inflicted damage. In Schmitt's eyes, the elements of such a structure must be the manifold of sovereign states. The liberal says there can only be one world-wide sovereign, the sovereignty of a universal moral and legal order. Schmitt counters with a plurality of equal sovereigns, for only in this way, he believes, can the economic and moral extinction of politics be prevented. Politics, on this view, is not the means by which the universally acknowledged good is actualized, but the mechanism that negotiates and limits disputes in the absence of any universally acknowledged good. Politics exists, in other words, because the just society does not.

#### This requires the unchecked authority of the executive to respond to the exception.

Nagan and Haddad 12

(Winston and Aitza, "Sovereignty in Theory and Practice." San Diego International Law Journal 13)

Although Schmitt was German, his ideas about sovereignty, and the political exception have had influence on the American theory and practice of sovereignty. Carl Schmitt was a philosophic theorist of sovereignty during the Third Reich. n375 His ideas about sovereignty and its above the law placement in the political culture of the State have important parallels in the developing discourse in the United States about the scope of presidential authority and power. His views have attracted the attention of American theorists. Schmitt developed his view of sovereignty on the concept described as "the exception". n376 This idea suggests that the sovereign or executive may invoke the idea of exceptional powers which are distinct from the general theory of the State. In Schmitt's view, the normal condition of the functions of the theory of a State, rides with the existence of the idea of the "exception." The exception is in effect intrinsic to the idea of a normal State. In his view, [\*487] the normal legal order of a State depends on the existence of an exception. n377 The exception is based on the continuing existence of an existential threat to the State and it is the sovereign that must decide on the exception. n378 In short, the political life of a State comprises allies and enemies. For the purpose of Statecraft, "an enemy exists only when at least potentially, one fighting collectivity of people confronts another similar collectivity." n379 In this sense, the political reality of the State always confronts the issue of the survival of the group. This reality is explained as follows. The political is the most intense and extreme antagonism, and every concrete antagonism becomes that much more political the closer it approaches the most extreme point, that of the friend-enemy grouping. \*\*\* As an ever present possibility [war] is the leading presupposition which determines in a characteristic way human action and thinking and hereby creates a specifically political behavior.\*\*\* A world in which the possibility of war is utterly eliminated, a completely pacified globe, would be a world without the distinction between friend and enemy and hence a world without politics. n380 Schmitt's view bases the supremacy of the exception on the supremacy of politics and power. n381 Thus, the exception, as rooted in the competence of the executive, is not dependent on law for its authority but on the conditions of power and conflict, which are implicitly pre-legal. n382 The central idea is that in an emergency, the power to decide based on the exception accepts its normal superiority over law on the basis that the suspension of the law is justified by the pre-legal right to self-preservation. n383 Schmitt's view is a powerful justification for the exercise of extraordinary powers, which he regards as ordinary, by executive authority. This is a tempting view for executive officers but it may not be an adequate explanation of the interplay of power, legitimacy, and the constitutional foundations of a rule of law State. In a later section, we draw on insights from the New Haven School, which deals empirically with the problem of power and the problem of constituting authority using the methods of contextual mapping. Nonetheless, Schmitt's view provides support for theorists who seek to enlarge executive power on the unitary presidency theory.

### Solvency

**Restricting war powers authority causes the executive shift to self-defense justification --- guts the plan’s signal and causes global instability**

Barnes, 12

J.D. at Boston University and M.A. in Law and Diplomacy at The Fletcher School of Law and Diplomacy at Tufts University (Spring 2012, Beau D., Military Law Review, “REAUTHORIZING THE “WAR ON TERROR”: THE LEGAL AND POLICY IMPLICATIONS OF THE AUMF’S COMING OBSOLESCENCE,” 211 Mil. L. Rev. 57)

2. Effect on the International Law of Self-Defense¶ **A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere**, **most likely in the international law of self-defense**--the jus ad bellum. n142 Finding sufficient legal authority for the United States's ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, **relying on this rationale usurps Congress's role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert "self-defense against a continuing threat" to target and detain terrorists worldwide, it will almost always be able to find such a threat.** n143 Indeed, the Obama Administration's broad understanding of the concept of "imminence" illustrates the danger of allowing the executive to rely on a **self-defense authorization** alone. n144 [\*94] This approach also **would inevitably lead to dangerous "slippery slopes."** **Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of "imminence,"** n145 **there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy.** **Although the Obama Administration has disclaimed this manner of broad authority because the AUMF "does not authorize military force against anyone the Executive labels a 'terrorist,'"** n146 **relying solely on the international law of self defense would likely lead to precisely such a result**.¶ The slippery slope problem, however, is not just limited to the United States's military actions and the issue of domestic control. **The creation of international norms is an iterative process**, **one to which the** **U**nited **S**tates **makes significant contributions**. **Because of this outsized influence, the U**nited **S**tates **should not claim international legal rights that it is not prepared to see proliferate around the globe**. Scholars have observed that **the** Obama **Administration's "expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . ."** n147 **Indeed, "[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos."** n148¶ [\*95] **Encouraging the proliferation of an expansive law of international self-defense would** not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration's national security policy, **sap**ping **U.S. credibility**. The Administration's National Security Strategy emphasizes U.S. "moral leadership," basing its approach to U.S. security in large part on "pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests." n149 **Defense Department General Counsel** Jeh **Johnson has argued that "[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge."** n150 **Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the** **U**nited States **"must not make [legal authority] up to suit the moment."** n151 The Obama Administration's global counterterrorism strategy is to "adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy" of "turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation." n152

#### The executive will redefine the law to get around the plan

Pollack 13

Norman Pollack 13, Prof of History @ MSU and PhD in History from Harvard, “Drones, Israel, and the Eclipse of Democracy, Counterpunch, 2/5, [www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/](http://www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/)

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to **remake the laws** of war by consciously violating them and then **creating** new legal concepts to provide juridical cover for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (**Obama is** hardly a novice **at** this game of **stretching the law to suit the convenience of**, shall we say, the **national interest**? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama **redefined the meaning** of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

#### Their restriction is a smokescreen and won’t be enforced

Nzelibe 7

Professor of Law @ Northwestern University [Jide Nzelibe, “Are Congressionally Authorized Wars Perverse?” Stanford Law Review, Vol. 59, 2007] we reject the use of ableist language in this card

These assumptions are all questionable. As a preliminary matter, there is not much causal evidence that supports the institutional constraints logic. As various commentators have noted, Congress's bark with respect to war powers is often much greater than its bite. Significantly, skeptics like Barbara Hinckley suggest that any notion of an activist Congress in war powers is a myth and members of Congress will often use the smokescreen of "symbolic resolutions, increase in roll calls and lengthy hearings, [and] addition of reporting requirements" to create the illusion of congressional participation in foreign policy.' 0 Indeed, even those commentators who support a more aggressive role for Congress in initiating conflicts acknowledge this problem," but suggest that it could be fixed by having Congress enact more specific legislation about conflict objectives and implement new tools for monitoring executive behavior during wartime. 12 Yet, even if Congress were equipped with better institutional tools to constrain and monitor the President's military initiatives, it is not clear that it would significantly alter the current war powers landscape. As Horn and Shepsle have argued elsewhere: "[N]either specificity in enabling legislation ... nor participation by interested parties is necessarily optimal or self-fulfilling; therefore, they do not ensure agent compliance. Ultimately, there must be some enforcement feature-a credible commitment to punish ....Thus, no matter how much well-intentioned and specific legislation Congress passes to increase congressional oversight of the President's military initiatives, it will come to naught if members of Congress lack institutional incentives to monitor and constrain the President's behavior in an international crisis. Various congressional observers have highlighted electoral disincentives that members of Congress might face in constraining the President's military initiatives. 14 Others have pointed to more institutional obstacles to congressional assertiveness in foreign relations, such as collective action problems. 15 Generally, lawmaking is a demanding and grueling exercise. If one assumes that members of Congress are often obsessed with the prospect of reelection, 16 then such members will tend to focus their scarce resources on district-level concerns and hesitate to second-guess the President's response in an international crisis. 17 Even if members of Congress could marshal the resources to challenge the President's agenda on national issues, the payoff in electoral terms might be trivial or non-existent. Indeed, in the case of the President's military initiatives where the median voter is likely to defer to the executive branch's judgment, the electoral payoff for members of Congress of constraining such initiatives might actually be negative. In other words, regardless of how explicit the grant of a constitutional role to Congress in foreign affairs might be, few members of Congress are willing to make the personal sacrifice for the greater institutional goal. Thus, unless a grand reformer is able to tweak the system and make congressional assertiveness an electorally palatable option in war powers, calls for greater congressional participation in war powers are likely to fall on deaf ears. Pg. 912-913

### Threats

**Surveillance drones independently cause escalation – aff can’t solve –1AC author**

Read pink

**Boyle 13**

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

**A** second **consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example**, much of the **stability among the Great Powers in the international system is driven by** deterrence, **specifically nuclear deterrence**.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 **While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same** level of **restraint with drone surveillance, which is** **unmanned, low cost, and** possibly **deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or** engage in ‘salami tactics’ to **see what kind of drone-led incursion**, if any, **will motivate a response**.137 **This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities**.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 **One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted** by the other **as an attack. As drones get** physically **smaller and more precise**, and as they develop a greater flying range, **the temptation to use them to spy on a rival’s nuclear programme** or military installations **might prove too strong to resist.** If this were to happen, **drones might gradually erode the deterrent relationships** that exist **between nuclear powers**, thus **magnifying the risks of a spiral of conflict between them.**

#### Shift to conventional deterrence blurs the firebreak – they can’t solve conflict and it increases the risk of nuclear escalation

Andrew Krepinevich and Steven Kosiak 1998 – Executive Director and Director of Budget Studies at the Center for Strategic and Budgetary Assessments (Andrew Krepinevich and Steven Kosiak, Winter 1998/99, “The Military Revolution And The Case For Deep Cuts In Nuclear Forces,” http://www.csbaonline.org/4Publications/PubLibrary/A.19981100.The\_Military\_Revol/A.19981100.The\_Military\_Revol.php, JMP)

In the absence of a “sanctuary” regime, there is a danger that transitioning to a highly effective nonnuclear strategic strike capability could actually **make nuclear war more likely**, by blurring the distinction, or “firebreak,” between nonnuclear and nuclear capabilities. In other words, there is a danger that the United States will feel freer than it has in the past to conduct strategic strikes — because it will be able to do so without resorting to nuclear weapons. However, the country on the receiving end may not view such a distinction as particularly meaningful and may well feel compelled to **retaliate with nuclear weapons.**

#### Zero data supports the resolve or credibility thesis

Mercer 13

Jonathan Mercer 13, associate professor of political science at the University of Washington in Seattle and a Fellow at the Center for International Studies at the London School of Economics, 5/13/13, “Bad Reputation,” <http://www.foreignaffairs.com/articles/136577/jonathan-mercer/bad-reputation>

Since then, the debate about what to do in Syria has been sidetracked by discussions of how central reputation is to deterrence, and whether protecting it is worth going to war. ¶ There are two ways to answer those questions: through evidence and through logic. The first approach is easy. Do leaders assume that other leaders who have been irresolute in the past will be irresolute in the future and that, therefore, their threats are not credible? No; broad and deep evidence dispels that notion. In studies of the various political crises leading up to World War I and of those before and during the Korean War, I found that leaders did indeed worry about their reputations. But their worries were often mistaken.

For example, when North Korea attacked South Korea in 1950, U.S. Secretary of State Dean Acheson was certain that America’s credibility was on the line. He believed that the United States’ allies in the West were in a state of “near-panic, as they watched to see whether the United States would act.” He was wrong. When one British cabinet secretary remarked to British Prime Minister Clement Attlee that Korea was “a rather distant obligation,” Attlee responded, “Distant -- yes, but nonetheless an obligation.” For their part, the French were indeed worried, but not because they doubted U.S. credibility. Instead, they feared that American resolve would lead to a major war over a strategically inconsequential piece of territory. Later, once the war was underway, Acheson feared that Chinese leaders thought the United States was “too feeble or hesitant to make a genuine stand,” as the CIA put it, and could therefore “be bullied or bluffed into backing down before Communist might.” In fact, Mao thought no such thing. He believed that the Americans intended to destroy his revolution, perhaps with nuclear weapons. ¶ Similarly, Ted Hopf, a professor of political science at the National University of Singapore, has found that the Soviet Union did not think the United States was irresolute for abandoning Vietnam; instead, Soviet officials were surprised that Americans would sacrifice so much for something the Soviets viewed as tangential to U.S. interests. And, in his study of Cold War showdowns, Dartmouth College professor Daryl Press found reputation to have been unimportant. During the Cuban Missile Crisis, the Soviets threatened to attack Berlin in response to any American use of force against Cuba; despite a long record of Soviet bluff and bluster over Berlin, policymakers in the United States took these threats seriously. As the record shows, reputations do not matter.

### China

#### Chinese modernization solves miscalc.

Moore, ’99 (Editor of the BAS, Bulletin of Atomic Scientists, 55:4)

It is conceivable that with the help of purloined data, combined with the competence of its own scientists and technicians, China in the next decade or two might be able to field nuclear weapons as sophisticated as those possessed by the United States, albeit in far lesser numbers. If so, that would give China a “survivable” nuclear retaliatory force based on mobile missiles with multiple warheads, as both the intelligence community’s damage assessment team and the Cox committee suggest. (China’s current force lags far behind those of the United States and Russia, each of which has thousands of modern nuclear warheads, not to mention Britain and France, which have modern arsenals numbering in the low hundreds. China’s long-range force is composed of about 20 1950s-technology liquid-fuel missiles, each with a single warhead. The United States or Russia could theoretically “disarm” China’s nuclear capacity in a matter of minutes.) Nevertheless, the strategic meaning of a modern “survivable” force has somehow escaped a lot of people in Congress, in the news media, and even in some think tanks. A populist newspaper columnist in Chicago, for instance, condemned the administration for going “into full reassurance mode” following release of the Cox report. “It’s nice to reassure people,” said the columnist. “Especially while you’re telling them that secrets to build weapons of mass destruction have ended up in the hands of unfriendly governments that might want to kill us.” One does not have to be a China apologist to be stunned by that sort of near hysteria. A survivable retaliatory or “second- strike” force is not a first-strike force. Under deterrence theory, such a force is supposed to prevent war, not start one. Even hard-line, pro-nuclear balance-of-power theorists argue that **a survivable second-strike force enhances strategic stability rather than degrading it**. China’s antiquated force lacks “crisis stability,” because its old, silo-based missiles can so easily be destroyed. In a time of high tension—say, over a Taiwan—China might find itself in a “use-’em-or-lose-’em” launch-on-warning situation. That’s a **nightmare scenario** for both the United States and China— and that’s why China is apparently developing a hard-to-target, second-strike, road-mobile missile, the DF-31.

#### No impact to China rise—can’t modernize quick enough and no incentive to strike

Joshua Goldstein September 2011 (Writer for Foriegn Policy, "Think Again: War--World Peace Could Be Closer Than You Think"http://www.foreignpolicy.com/articles/2011/08/15/think\_again\_war?page=full)

What about China, the most ballyhooed rising military threat of the current era? Beijing is indeed modernizing its armed forces, racking up double-digit rates of growth in military spending, now about $100 billion a year. That is second only to the United States, but it is a distant second: The Pentagon spends nearly $700 billion. Not only is China a very long way from being able to go toe-to-toe with the United States; it's not clear why it would want to. A military conflict (particularly with its biggest customer and debtor) would impede China's global trading posture and endanger its prosperity. Since Chairman Mao's death, China has been hands down the most peaceful great power of its time. For all the recent concern about a newly assertive Chinese navy in disputed international waters, China's military hasn't fired a single shot in battle in 25 years.

#### -- No impact to miscalc.

FAS, '8 (http://www.docstoc.com/docs/6095401/Toward-True-Security)

China now deploys roughly 20 single-warhead, liquid-fueled DF-5 missiles, capable of reaching all of the United States. Because China apparently stores the warheads and fuel separately from the missiles, the probability of an accidental or unauthorized launch **is low**. Mistaken launch in response to false warning of a U.S. or Russian strategic attack is also unlikely, because China does not have a system of early-warning sensors that permit it to launch on detection of an incoming attack. China could launch a deliberate attack against the United States, but it has no plausible reason for doing so. In any event, because China clearly does not have the capability to execute a disarming first strike, the United States would still be capable of massive retaliation after an attack. This knowledge would strongly deter any Chinese leaders contemplating such an attack.

#### No US-China War – econ, deterrence, resilient relations

Harding 12

(Harry, American political scientist specializing in Chinese politics and foreign affairs, founding dean of the Batten School of Leadership and Public Policy at the University of Virginia, previously served as dean of the Elliott School of International Affairs, advised several US Presidents on developments in the PRC; August, “American Visions of the Future of U.S.-China Relations: Competition, Cooperation, and Conflict,” in Tangled Titans, ed. David Shambaugh, Rowland & Littlefield, p. 406 – Kurr)

Fortunately, an essentially confrontational relationship is also unlikely, especially in the sense of a direct military conflict. The high degree of economic interdependence between the two countries has already created a relatively resilient relationship since the costs of a fundamental break between the two countries would be very high for each of them.24 Equally important, the cost of military conflict, especially given the fact that both China and the U.S. are nuclear powers, will be a significant deterrent against military conflict. Although China and the U.S. may not be compelled to cooperate, in other words, they may be compelled to avoid confrontation. Moreover, the probability of the most worrying of the triggers events identified above – a unilateral declaration of independence by Taiwan – is presently quite low, as is the risk that China would try to compel unification through the use of force. In this case a system of mutual deterrence prevents any party from crossing any of the other’s “red lines,” which have been clearly identified and communicated. Another possible trigger event, the collapse of the North Korean regime, has a somewhat higher probability, and the two countries’ red lines are less clear, but their ability to communicate quickly and avoid open conflict over that issue, while worth bolstering, is probably adequate, unless the overall relationship had deteriorated further prior to the event. Here again, mutual deterrence will play an important role in preventing the descent into military confrontation.

#### Relations are resilient- single disputes don’t spiral out of control

Economy ‘12

[Elizabeth C. Economy, C.V. Starr Senior Fellow and Director for Asia Studies, Council on Foreign Relations. Interviewed by Bernard Gwertzman, Consulting Editor, CFR.org. <http://www.cfr.org/china/maturing-us-china-relations/p28184> ETB]

In many respects, this was a fairly astonishing set of discussions that these two countries managed to have in the midst of this emerging crisis surrounding Chen Guangcheng. The fact that Beijing and Washington were able not only to conduct the two days of discussions but also to arrive at some concrete agreements was a sign that there may be an emerging maturity in the relationship. Both sides are clearly committed to maintaining stability in the relationship and were very unwilling to allow this one striking and important incident to cause the relationship to spiral downward, or to cause a real deterioration in the relationship. So perhaps ironically, in some respects, this strategic and economic dialogue demonstrated as positive a state in the relationship as we've seen in a while.

#### Political confrontations wont escalate past rhetoric

Sambor 09

[Jean Charles, Writer for the SGAM Group, an Assets Management Group in France, <http://www.sgam.se/portal/binary/staticFile/STATIC%20FILE/SGAMCOM%20-%20EN/Global%20Snapshots/2009/GS120209_article2.pdf>]

President Obama will be no exception to the rule in this regard, even though in general Democrats maintain a tougher stance against China than Republicans. An outright US-China confrontation is an unlikely scenario in our view. While it is clear that China and the US will continue this awkward chicken and the egg finger pointing exercise for a while – Did China save too much or did the US spent too much? – we expect few escalations and economic sanctions beyond the political rhetoric.

#### China won’t let relations collapse

Shirk ‘7

Susan Shirk, served as deputy assistant secretary for China at the U.S. State Department from 1997 2000.CHINA: FRAGILE SUPERPOWER, 2007, p. 219-20

How do China's leaders resolve this quandary"! Jiang Zemin first tried to have it both ways, improving relations with the United States while simultaneously pumping up nationalism to bolster his domestic stand­ing. But making progress with the United States was stymied by congres­sional insistence on improvements in human rights, the one area in which the CCP was most afraid to bend. Then several unpredictable events such as the Chinese Embassy bombing in Belgrade triggered destabilizing domestic reactions. China's leaders learned the hard way that when public opinion has been inflamed, international crises can become dangerous domestic crises. After a heated internal debate, the Chinese government decided that from then on, it would swallow its pride to preserve good relations with the United States and try to minimize the domestic fallout. A major effort to improve crisis management and tone down nationalist rhetoric with the goal of insulating Sino-U.S. relations from the pressures of domestic politics resulted. And superficially, China's relations with the United States improved significantly. Under the surface, however, the Chinese public and the military continue to suspect U.S. intentions and the gap between nationalist public opinion and pragmatic foreign policy remains.

*The United States* 221

### Prolif Adv

#### NFU causes prolif – forces others to rely more on nukes to counter US superiority and conventional weapon usability

Andrew Futter and Benjamin Zala 2013; Monterey Institute of International Studies, James Martin Center for Nonproliferation Studies, “ADVANCED US CONVENTIONAL WEAPONS AND NUCLEAR DISARMAMENT”, The Nonproliferation Review, 20:1, 107-122, DOI: 10.1080/10736700.2012.761790

While the idea of increasing the role of advanced conventional weaponry as a component of US national security thinking and practice is not new, Obama is the first president to strongly link these plans with the goal of pursuing a world free from nuclear weapons.3 As a result, the administration’s domestic policy focus must also take into consideration the international impact of the disarmament agenda on the major military fault lines in key US nuclear relationships with Russia, China, and other nuclear weapon states. When the dynamics of these relationships are considered, the Obama plan to reduce the salience of nuclear weapons through\*at least in part\*a greater role for advanced conventional weaponry in order to foster larger nuclear reductions appears unlikely to succeed. The central problem is that US superiority in advanced conventional weaponry makes it very difficult for any US rival to agree to work toward a nuclear-free world when such a move\*already made difficult by existing conventional imbalances\* will magnify US power. More specifically, the close link between nuclear reductions and increases in conventional capabilities essentially works to decrease US vulnerability in a nuclear disarmed world, while at the same time increasing the vulnerability of its current or future rivals and adversaries. As the former US Secretary of Defense Harold Brown has written, ‘‘U.S. conventional power-projection capability and the concern that it may be used to intimidate, attack, or overthrow regimes’’ is far more important in terms of driving proliferation and increasing Russian and Chinese reliance on nuclear weapons than ‘‘fear of U.S. nuclear capability or the content of U.S. nuclear policy.’’4As such, a growing role for advanced conventional weaponry in US national security thinking\*even if it helps to facilitate US nuclear reductions\*appears likely to make Obama’s quest for global zero far more difficult, and perhaps impossible.5’

#### NFU can’t solve prolif – NPT cred does nothing and it collapses extended deterrence

Pierre Hassner 2007, Emeritus Research Director and Research Associate at The Centre for International Studies and Research, Sciences Po, Paris, France; Who killed nuclear enlightenment? International Affairs 83: 3 (2007) 427–430)

I shall dwell a little more on the strategic and moral dimensions of the ‘nuclear bargain’. The first concerns the promise of extended deterrence and its role in limiting proliferation. This involves a series of dilemmas and a debate which predates the Non-Proliferation Treaty and may well be re-emerging today in connection with the Middle East. Advocates of the NPT are normally also advocates of minimum deterrence as a step towards nuclear disarmament, and of ‘no first use’ of nuclear weapons as a step towards their marginalization and as a way to emphasize that their only use is to deter their use by others, or even that this deterrence should operate by their existence alone. The result in terms of a nuclear order should then be based on ‘mutual assured destruction’. This posture has the virtue of avoiding the ‘mad momentum’ of a nuclear arms race and the illusion of victory in a nuclear war. However, both its credibility and its morality if deterrence fails have been strongly criticized. Its real weakness, I think, is in terms of extended deterrence. It may be the least bad solution if states have only to deter an attack against themselves, but what is its credibility if they have to deter an attack upon their allies, let alone upon other non-nuclear states party to the NPT? Would they not need what Herman Kahn used to call a ‘not too uncredible threat of a first strike’, and does that not mean a strike which would not be suicidal? Would this kind of strike not require a counterforce capability and would it not be enhanced by missile defense? Hence the anti-MAD, pro-counterforce school has argued that the best strategy against the proliferation of nuclear weapons is one that maintains the flexibility and, if possible, the superiority made impossible by ‘minimum’ or, even more, by ‘existential’ mutual deterrence. But if one adopts this argument, does it not set us on the road to what Walker calls ‘counter-enlightenment’—that is, the refusal of universality and reciprocity in favour of war-fighting postures, the mutual search for superiority, the likelihood of an intensified arms race and an increased risk of nuclear war? The only possible way of avoiding both the pitfalls of mutual vulnerability and the dangers of the search for unilateral invulnerability may be essentially political, involving a tightening of alliances and a strategy of engagement materialized by visible physical presence on the territory of one’s non-nuclear allies. But this would look more like NATO than like collective security, and it would leave the unattached without a credible security guarantee unless the alliance were extended to the whole world, which would give it all the characteristics of an empire. These dilemmas are insoluble; I mention them not as an argument for inaction, but to indicate that, like enlightenment in general according to Adorno and Horkheimer, nuclear enlightenment may lead to dialectical reversals and unwanted results. Above all, they indicate that while universal treaties (like the convention against genocide) and declarations of intention are inspiring and legitimizing documents or institutions, their application can never be detached from political interests and priorities, from relations of power and of alliance, of dependence or of rivalry. The question is whether their value as inspirations, as guides or, in Kantian terms, as ‘regulatory ideas’ is morally useful or can lead to hypocrisies and disaffections when confronted with reality. Here lies my main political and moral objection to the idealized picture presented by William Walker of nuclear enlightenment in general and of the Nuclear Non-Proliferation Treaty in particular. It is contained in one word: hypocrisy. Walker directs all his attacks against the cynicism or scepticism of counter-enlightenment, represented by the Bush administration, and its abandonment of the goal of denuclearization. It has certainly made matters much worse, in particular by de-emphasizing the distinction between deterrence and war-fighting, and between nuclear and conventional weapons. But what Walker tends to forget or to downplay is the hypocrisy which prevailed almost without exception among nuclear powers, and to a large extent also among non-nuclear states, about getting rid of their own nuclear weapons and reaching universal nuclear disarmament. I think it is fair to say that none of the leaders of the nuclear powers, with the possible exceptions of Gorbachev and Reagan, ever seriously contemplated following the South African example and abandoning nuclear weapons. At any rate I have no hesitation whatsoever in stating that the thought never crossed the mind of any French political or military authority. Nor can I blame them for their skepticism in this respect, even though I emphatically do not share their belief in the automatic stabilizing, equalizing and, above all, moderating effect of nuclear weapons. I remain convinced that you cannot eliminate knowledge, that nuclear weapons cannot be dis-invented, and that the calculations of the most serious of arms controllers, such as Thomas Schelling in the 1960s, according to which a situation of minimal deterrence, with a few tens of nuclear missiles instead of thousands, would be more stable than the abolition of nuclear weapons, which could not be verified and would give rise to permanent suspicion of surprise attack, remain valid. Nor do I believe that the non-fulfilment by the great powers of their pledge to work towards total nuclear disarmament is a basic cause of proliferation. I think that if they were to keep their word, the power of their example would not be sufficient, in most cases, to prevail against the motivations in terms of status, domination or security that may push some of the non-nuclear states to seek nuclear status. The non-compliance of the nuclear powers with article VI of the treaty simply provides these other states with a ready-made alibi for continuing their quest, and some of them might even be encouraged or reinforced in their decision to go nuclear by the removal of the threat of nuclear retaliation by one of the existing nuclear powers.

**Prolif inevitable- NPT makes opaque, which is uniquely worse**

**Wesley**, Executive Director of the Lowy Institute for International Policy, **2005** (Michael, Australian Journal of International Affairs, September, “It’s Time To Scrap the NPT,” EBSCO, Date Accessed: June 26, 2010, p.283-284 DMC)

My central argument is that the horizontal proliferation of nuclear weapons will probably continue at the rate of one or two additional nuclear weapons states per decade, whether or not the NPT is retained. Persisting with the NPT will make this proliferation much more dangerous than if the NPT is replaced with a more practical regime. I argue that the NPT is a major cause of opaque proliferation, which is both highly destabilising and makes use of transnational smuggling networks which are much more likely than states to pass nuclear components to terrorists. On the other hand, scrapping the NPT in favour of a more realistic regime governing the possession of nuclear weapons would help put transnational nuclear smuggling networks out of business and stabilise the inevitable spread of nuclear weapons.

#### No widespread prolif

Hymans 12

Jacques E. C. Hymans is Associate Professor of IR at USC [April 16, 2012, “North Korea's Lessons for (Not) Building an Atomic Bomb,” *Foreign Affairs*, http://www.foreignaffairs.com/articles/137408/jacques-e-c-hymans/north-koreas-lessons-for-not-building-an-atomic-bomb?page=show]

Washington's miscalculation is not just a product of the difficulties of seeing inside the Hermit Kingdom. It is also a result of the broader tendency to overestimate the pace of global proliferation. For decades, Very Serious People have predicted that strategic weapons are about to spread to every corner of the earth. Such warnings have routinely proved wrong -- for instance, the intelligence assessments that led to the 2003 invasion of Iraq -- but they continue to be issued. In reality, despite the diffusion of the relevant technology and the knowledge for building nuclear weapons, the world has been experiencing a great proliferation slowdown. Nuclear weapons programs around the world are taking much longer to get off the ground -- and their failure rate is much higher -- than they did during the first 25 years of the nuclear age. As I explain in my article "Botching the Bomb" in the upcoming issue of Foreign Affairs, the key reason for the great proliferation slowdown is the absence of strong cultures of scientific professionalism in most of the recent crop of would-be nuclear states, which in turn is a consequence of their poorly built political institutions. In such dysfunctional states, the quality of technical workmanship is low, there is little coordination across different technical teams, and technical mistakes lead not to productive learning but instead to finger-pointing and recrimination. These problems are debilitating, and they cannot be fixed simply by bringing in more imported parts through illicit supply networks. In short, as a struggling proliferator, North Korea has a lot of company.

#### No war - history supports

Tepperman ‘9

(Jonathan Tepperman a journalist based in New York City. “Why Obama should learn to love the bomb” Newsweek Nov 9, 2009 <http://jonathantepperman.com/Welcome_files/nukes_Final.pdf>)

**A growing** and compelling **body of research suggests** that **nuclear weapons** may not, in fact, make the world more dangerous, as Obama and most people assume. The bomb may actually **make us safer**. In this era of rogue states and trans-national terrorists, that idea sounds so obviously wrongheaded that few politicians or policymakers are willing to entertain it. But that’s a mistake. Knowing the truth about nukes would have a profound impact on government policy. Obama’s idealistic campaign, so out of character for a pragmatic administration, may be unlikely to get far (past presidents have tried and failed). But it’s not even clear he should make the effort. There are more important measures the U.S. government can and should take to make the real world safer, and these mustn’t be ignored in the name of a dreamy ideal (a nuke free planet) that’s both unrealistic and possibly undesirable. The argument that nuclear weapons can be agents of peace as well as destruction rests on two deceptively simple observations. First, nuclear weapons have not been used since 1945. Second, **there’s never been a** nuclear, or even a nonnuclear, **war between two states that possess them**. Just stop for a second and think about that: it’s hard to overstate how remarkable it is, especially given the singular viciousness of the 20th century. As Kenneth Waltz, the leading “nuclear optimist” and a professor emeritus of political science at UC Berkeley puts it, “We now have 64 years of experience since Hiroshima. It’s striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states.” To understand why—and why the next 64 years are likely to play out the same way—you need to start by recognizing that **all states are rational** on some basic level. Their leaders may be stupid, petty, venal, even evil, but they tend to do things only when they’re pretty sure they can get away with them. Take war: **a country will start a fight only when it’s almost certain it can get what it wants at an acceptable price**. Not even Hitler or Saddam waged wars they didn’t think they could win. The problem **historically** has been that **leaders often make the wrong gamble and underestimate the other side**—and millions of innocents pay the price. **Nuclear weapons change all that by making the costs of war** obvious, inevitable, and unacceptable. Suddenly, when both sides have the ability to turn the other to ashes with the push of a button— and everybody knows it—the basic math shifts. Even the craziest tin-pot dictator is forced to accept that war with a nuclear state is unwinnable and thus not worth the effort. As Waltz puts it, “Why fight if you can’t win and might lose everything?” Why indeed? **The iron logic of deterrence** and mutually assured destruction **is so compelling**, it’s led to what’s known as the nuclear peace: the virtually unprecedented stretch since the end of World War II in which all the world’s major powers have avoided coming to blows. They did fight **proxy wars**, ranging from Korea to Vietnam to Angola to Latin America. But these **never matched the** furious **destruction of** full-on, great**-power war** (World War II alone was responsible for some 50 million to 70 million deaths). And since the end of the Cold War, such bloodshed has declined precipitously. Meanwhile, the nuclear powers have scrupulously avoided direct combat, and there’s very good reason to think they always will. There have been some near misses, but a close look at these cases is fundamentally reassuring—because in each instance, very different leaders all came to the same safe conclusion. Take the mother of all nuclear standoffs: the Cuban missile crisis. For 13 days in October 1962, the United States and the Soviet Union each threatened the other with destruction. But both countries soon stepped back from the brink when they recognized that a war would have meant curtains for everyone. As important as the fact that they did is the reason why: Soviet leader Nikita Khrushchev’s aide Fyodor Burlatsky said later on, “It is impossible to win a nuclear war, and both sides realized that, maybe for the first time.” The record since then shows the same pattern repeating: nuclear armed enemies slide toward war, then pull back, always for the same reasons. **The best recent example is India and Pakistan**, which fought three bloody wars after independence before acquiring their own nukes in 1998. **Getting their hands on weapons** of mass destruction didn’t do anything to lessen their animosity. But it did dramatically mellow their behavior. Since acquiring atomic weapons, the two sides have never fought another war.

# 2NC

Sharepoint is the worst and deleted my doc ☹

It was Schmitt again. Same 4 cards we read in every other debate

# 1NR

**2NC Limits DA – Short**

**Even HAARP**

**MIHALKO ‘13**

Mark <http://theringmastersrealm.blogspot.com/2013/01/the-executive-order-haarp-natural.html>

As I was driving home today, the words of Vice President Biden about the potential use of Executive Order for gun control struck a nerve. Sure, it is unconstitutional and an outrageous idea, but there was another reason. That secondary reason stems from my research on the use of HAARP and the signing of borderline-to-illegal executive orders by this administration. This was originally posted in separate pieces, but I believe it is time to put this all together and publish it for all people to read and dissect. Yes, it is a long post, but it is full of information that I believe is very important. Some of the ideas may seem speculative, but when you pull back the curtain and look at what is beginning to transpire, these are some signs to be monitoring. ¶ For many American citizens, the information that I have provided on HAARP and Weather Manipulation sits as just conspiracy theory. To them, there is no way that the government can or will control the weather, especially in a way that can harm or injure innocent victims. In looking at the evidence that we have discovered, there is no question that this type of activity could be possible. Of course, the major question would be why. While the true reasons could be many, it seems to come down to a somewhat common thread of this administration, New World Order or a World Government. That is right, the NWO that have ideals that promote Population Control, Gun Control, Martial Law, and a Police State. Yes, the theory is out there, but before you call me crazy, look at the facts and hear me out. This may not be easy to read, and you may not want to believe it, but there are just too many twists to be anything else.¶ While we found some disturbing activities that happened during the days, we outlined in that article, it was important to determine a point where these types of occurrences started. In my view, the precision that was demonstrated by placing a HAARP signal in the perfect spot at the precise power ratio that would steer Hurricane Sandy almost to a 90-degree turn would have to be an outcome and not a chance placement. With that in mind**, I did** **a random Google search for natural disaster and** **HAARP**, just in a chance something would hit, and something did. In searching for answers, **a disturbing trend started to appear with** natural disasters and a long stretch of what many consider **unconstitutional executive orders or legislation**.¶ The date was January 12, 2010 and the massive 7.0 Earthquake struck Haiti, destroyed much of a country that was barely hanging on after being hit with four hurricanes, and guess what, there were major HAARP testing events taking place that day. Now that may be coincidence, but it was what was happening in the Executive Offices that added some clarity to the ordeal. Executive Order 13528 the Establishment of the Council of Governors was signed. Sure, from the name, it may sound harmless, but in reality, it is the Executive Order that for all intensive purposes outline how and when Martial Law is to be set in the United States. That is right, Martial Law here inside our borders. Ironically, all test data for the HAARP system on this date has been deleted.¶ Incredibly, the foray into the ultimate goal of New World Order seems to be growing and the cloak of misdirection is just beginning. Yesterday, I covered what seemed to be the beginning of the use of HAARP to control the weather for political gain in this current administration. At this point, I am still researching strange weather phenomena and governmental actions in previous administrations, which I am positive, will exist. Now, it is time to continue on breaking down this string of concentrated coincidences. We will spend this article documenting the eventful year of 2011, starting with the tragedies suffered in Joplin, Missouri.¶ From all accounts, there were some extreme HAARP readings in the time preceding the devastating tornados that ravaged Joplin, Missouri. While the specific numerical values of those levels are not available to the extent they are now, “HAARP Rings” were found on multiple weather RADAR systems prior to the ordeal. In a strange twist, this storm, coupled with some recent flooding not only fit the profile of the United Nations famed Agenda 21 for population control, it also coincided with the signing of another Executive Order, Executive Order 13574 of May 23, 2011, Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Sanctions Act of 1996, as Amended. It authorizes the government to seize assets of a “sanctioned person” in a battle against terrorism.¶ This is the first time you see the term “sanctioned” person in use and it will be a key theme moving forward. What is a sanctioned person? By loose definition, it could be someone with multiple guns, someone with a stockpile of ammunition, someone who has a stash of gold or silver, and the best someone with seven days of stored food. Honestly, that describes many Americans. Of course, some will argue that this mentions Iran specifically, but in reading it, it only calls Iran by name once and uses the reference United States Person on more than one occasion.¶ The next date is September 9, 2011, the same day that we outlined in one of our other HAARP articles, when Hurricane Irene bore down on the East Coast, an earthquake hit Vancouver, and there was destruction in Central America. On that date, we did not see President Obama intently watching the devastation in real time in the White House Situation Room like with Hurricane Sandy. In fact, he was busy signing Executive Order 13584 - Developing an Integrated Strategic Counterterrorism Communications Initiative and Establishing a Temporary Organization to Support Certain Government-wide Communications Activities Directed Abroad. From the name, and for the most part in reading it, it is an anti-terrorism order. Yet, a closer look would reveal that it authorizes a special agency inside the State Department to create a communications link monitoring terrorist activities against American citizens in national and international areas. Really, this one is not extremely dangerous by itself, but again, this is one of many to come.¶ After this order, things quieted down, until Executive Order 13590 - Authorizing the Imposition of Certain Sanctions with Respect to the Provisions of Goods, Services, Technology, or Support for Iran's Energy and Petrochemical Sectors signed on November 20, 2011. This was an interesting order because the term “sanctioned person” was used again. Coincidently, that date also matched a day where severe weather along with heavy rain started for the parts of the United States, including heavy precipitation in the Northwest that measured at least seven inches in some areas.¶ To close out 2011, we move to December, when President Obama signs the extremely contentious National Defense Authorization Act (NDAA). This act has been in place since the early 2000s and has been controversial since its inception. If you have not heard of the act, you must be out of the loop. This act authorizes $662 billion in funding for the defense of the United Statesand its interests abroad. It includes items such as Department of Defense health care costs, counter-terrorism within the U.S. and abroad and military modernization. It also imposes economic sanctions against Iran (section 1045), commissions appraisals of the military capabilities of countries such as Iran, China, and Russia, refocuses the strategic goals of NATO, and gives governors the ability to request the help of military reservists in the event of a hurricane, earthquake, flood, terrorist attack or other disaster.¶ While those issues may not seem out of line, the most controversial provisions are contained in Title X, Subtitle D, entitled Counter-Terrorism. These include sub-sections 1021 and 1022, which deal with detention of persons the government suspects of involvement in terrorism. The controversy was to their legal meaning and **potential implications for abuse of Presidential authority**. Although the White House and Senate sponsors maintain that the Authorization for Use of Military Force (AUMF) already grants presidential authority for indefinite detention, or the creation of a kill list, the act states that Congress "affirms" this authority and makes specific provisions as to the exercise of that authority for indefinite detention without trial. Of course, separately these mean little, but as a whole, create a tangled web. Especially when you dig a bit deeper in natural disasters with somewhat troubling political undercurrents involved.¶ Do you see how **these events are connected**, and at the price of the freedoms granted in the Constitution of the United States. The combination of the unconstitutional portions of the NDAA, coupled with the powers granted in these executive orders sit at the heart of something bigger than the War on Terror. Think about what we have heard, Osama Bin Laden is Dead; the terrorists are on the run. Even if that was the case, and it is not, why do we have a need for so many covert orders that have to potential to suppress Constitutional Rights? The only reason I can see is something much darker, something mentioned by President George H.W. Bush, the New World Order. A reference he made multiple times including once on September 11, 1990 and then again in his most famous statement in March 1991.

**And Rods from God, global strike, space lasers, and heat weapons**

**SpaceDaily ‘05**

<http://www.spacedaily.com/reports/White_House_Says_It_Is_Not_Looking_At_Weaponizing_Space.html>

The White House said Wednesday that it is not looking at weaponizing space in the face of **a** newspaper **report stating the US Air Force was seeking presidential authority** **that could lead to** such a program.¶ "Let me make that clear right off the top, because you asked about **the weaponization of space**, and the policy that we're talking about is not looking at weaponizing space," White House spokesman Scott McClellan told reporters.¶ However, McClellan said that the administration of US President George W. Bush wants to ensure that its space assets are adequately protected.¶ "We have a draft updated national space policy that is going through the interagency review process," he said.¶ McClellan spoke in the wake of a New York Times report Wednesday which said the US Air Force was seeking a national security directive from President Bush that could lead to fielding offensive and defensive space weapons.¶ An unidentified senior administration official, cited by the Times, said a new presidential directive to replace a 1996 policy that emphasized a more pacific use of space is expected within weeks.¶ McClellan said that Bush had directed in June 2002 "that there be a review of our national space policies."¶ The White House spokesman said it had been "about seven or eight years" since US space policy had been updated.¶ "And certainly during the last eight or nine years there have been a number of domestic and international developments that have changed the threats and challenges facing our space capabilities," McClellan said.¶ "And so the space policy needed to be updated to take into account those changes. And at this point it's still going through that review process.¶ "We believe in the peaceful exploration of space," he stressed.¶ Officials told the Times that the aim of the directive was not to place weapons permanently in orbit - which is banned under the 30-year-old Antiballistic Missile Treaty the US withdrew from in 2002 - but to use space as a platform for weapons systems currently being developed.¶ The daily mentioned Air Force programs such as **Global Strike**, calling for a military space plane carrying precision-guided weapons that could strike from halfway around the world in 45 minutes.¶ The **'Rods From God'** program aims to launch cylinders of tungsten, titanium or uranium from space to strike targets on the ground at speeds of about 11,500 kilometers per hour (7,200 miles per hour) with the force of a small nuclear weapon.¶ Other programs call for **bouncing** lethal **laser beams off orbiting mirrors** or high-altitude blimps, **or turning radio waves into heat weapons**. In April the Air Force launched an experimental XSS-11 microsatellite able to disrupt reconnaissance and communications satellites.

**Broad interpretations cause unmanageable research burdens**

**Taylor 5**

Taylor III, now a JD from William and Mary, 2005¶ (Jarred, “Searching for a More Perfect Union,” <https://docs.google.com/document/d/1ypiOXjRVPWzNxDsFVJ0S1n-QfIGtXzp7Y59meEwd-bE/edit?hl=en_US>)

**It would take even the most seasoned scholar years of research and hundreds of pages to** adequately **analyze** the development of **any presidential power** over the course of American history; **war power is** certainly **no exception**. Every President since George Washington has interpreted the martial prerogatives of his office in different ways, and most have set some sort of precedent for succeeding officeholders. Nevertheless, some of the major changes in executive military power bear highlighting.

**AT Reasonability**

**3) It’s arbitrary and undermines research**

**Resnick 1**

Evan Resnick 1, assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.