# Round report

1AC - Congress restricts intro of armed forces

1NC - Resolve DA, CIR Politics DA (Econ), Case

2NC - Resolve DA, Case

1NR - Case

2NR - Resolve DA, Case

# 1NC

## Resolve

#### Congressional restrictions cause adversaries to doubt the resolve of U.S. deterrence – causes crisis escalation.

Waxman 8/25 [Matthew Waxman 8/25/13, Professor of Law – Columbia and Adjunct Senior Fellow for Law and Foreign Policy – CFR, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN]

A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it **establishes easily-visible impediments to the President’s authority** to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that **any serious restrictions** on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off **explosive confrontations.”**178 He continued:¶ In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the most important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation **which might escalate.**179

#### Political restraints on retaliation undermine US conventional deterrence

Gerson 09

MICHAEL S. GERSON, research analyst at the Center for Naval Analyses, Policy Fellow with the ONE Campaign, a visiting fellow with the Center for Public Justice, and a former senior fellow at the Council on Foreign Relations,“Conventional Deterrence in the Second Nuclear Age”, Strategic Studies Institute, Autumn 2009 //jchen

The importance of the credibility of US conventional capabilities remains relevant. Future adversaries may discount conventional threats in the mistaken belief that they could circumvent US forces via a fait accompli strategy or otherwise withstand, overcome, or outmaneuver the United States on the conventional battlefield. But a singular focus on the capabilities part of the credibility equation misses the critical importance of an adversary’s judgment of US political resolve. In future conventional deterrence challenges, perceptions of US political willpower are likely to be as important for deterrence credibility as military capabilities.

One of the key challenges facing the United States in future conventional deterrence contingencies is the perception that American public and political leaders are highly sensitive to US combat casualties and civilian collateral damage.48 Regardless of the actual validity of this belief—and there is some evidence suggesting that the US public is willing to tolerate casualties if the conflict is viewed as legitimate or the public believes the United States has a reasonable chance of prevailing49—this view appears to be relatively widespread.50 If conventional deterrence is largely based on the threat to rapidly engage the opponent’s forces in combat, then the credibility of this threat depends on an opponent’s belief that the Unit- ed States is willing to accept the human and fiscal costs of conventional conflict. Consequently, perceptions of casualty sensitivity can undermine the credibility and potential success of conventional deterrence. A nation might be more inclined to attempt regional aggression if it believes that a sufficient US military response would be hindered or prevented by the political pressures associated with America’s alleged aversion to casualties.

#### Maintaining a credible conventional deterrent is key to check nuclear aggression

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MICHAEL S. GERSON, research analyst at the Center for Naval Analyses, Policy Fellow with the ONE Campaign, a visiting fellow with the Center for Public Justice, and a former senior fellow at the Council on Foreign Relations,“Conventional Deterrence in the Second Nuclear Age”, Strategic Studies Institute, Autumn 2009 //jchen

Although implicit or explicit nuclear threats may lack credibili- ty against non-WMD regimes, many potential adversaries believe that the United States will use conventional firepower, especially because America has conventional superiority and a demonstrated willingness to use it. Consequently, when dealing with non-WMD-related threats, conventional deterrence will be the most likely mechanism for deterring hostile actions.

According to Admiral Michael Mullen, the current Chairman of the Joint Chiefs of Staff, “A big part of credibility, of course, lies in our convention- al capability. The capability to project power globally and conduct effective theater-level operations . . . remains essential to deterrence effectiveness.”14

Conventional deterrence also plays an important role in preventing nonnuclear aggression by nuclear-armed regimes. Regional nuclear pro- liferation may not only increase the chances for the use of nuclear weap- ons, but, equally important, the possibility of conventional aggression. The potential for conventional conflict under the shadow of mutual nucle- ar deterrence was a perennial concern throughout the Cold War, and that scenario is still relevant. A nuclear-armed adversary may be emboldened to use conventional force against US friends and allies, or to sponsor ter- rorism, in the belief that its nuclear capabilities give it an effective deter- rent against US retaliation or intervention.15 For example, a regime might calculate that it could undertake conventional aggression against a neigh- bor and, after achieving a relatively quick victory, issue implicit or explicit nuclear threats in the expectation that the United States (and perhaps coali- tion partners) would choose not to get involved.

In this context, conventional deterrence can be an important mech- anism to limit options for regional aggression below the nuclear threshold. By deploying robust conventional forces in and around the theater of potential conflict, the United States can credibly signal that it can respond to conventional aggression at the outset, and therefore the opponent can- not hope to simultaneously achieve a quick conventional victory and use nuclear threats to deter US involvement. Moreover, if the United States can convince an opponent that US forces will be engaged at the beginning of hostilities—and will therefore incur the human and financial costs of war from the start—it can help persuade opponents that the United States would be highly resolved to fight even in the face of nuclear threats be- cause American blood and treasure would have already been expended.16 Similar to the Cold War, the deployment of conventional power in the re- gion, combined with significant nuclear capabilities and escalation dom- inance, can help prevent regimes from believing that nuclear possession provides opportunities for conventional aggression and coercion.

## Politics

#### Comprehensive reform will pass now – Obama’s going all-in to work with moderates.

Daily Mail 10/17 [“Immigration battle threatens to dwarf debt-limit fight as many Republicans fear power of 17 MILLION newly legalized loyal Democrats,” http://www.dailymail.co.uk/news/article-2464112/Immigration-battle-threatens-dwarf-debt-limit-fight-Republicans-fear-power-17-MILLION-newly-legalized-loyal-Democrats.html#ixzz2i182BrcS]

The White House has shifted gears and put its policy team in immigration overdrive, zooming past the debt crisis that threatened to sink the republic and on to the task of normalizing the estimated 11 million U.S. residents who have no legal basis for being there. The Democrat-dominated U.S. Senate passed a bill in June that would provide a citizenship path for those who have been in the U.S. since the end of 2011. But as with the early days of the debt crisis and the partial government shutdown, Republican leaders in the House of Representatives aren't eager to consider it. The White House has avoided saying that it take advantage of a weak House and spend its political capital to push an immigration policy, but Republicans have reason to suspect the other shoe is about to drop. The Center for Immigration Studies, a Washington, D.C. think-tank, projects that the Senate bill, S.744, would add 17.3 million new legal, voting-age U.S. residents to 14.9 million whom analysts already expect to appear without the proposed law. 'To place these figures in perspective,' writes Steven Camarota, the group's director of research, 'the last four presidential elections were decided by 4.5 million votes on average.' Obama has been 'trying to destroy the Republican Party' with the debt standoff, says Rep. Raul Labrador, 'and I think that anything we negotiate right now with the president on immigration will be with that same goal in mind' Obama has been 'trying to destroy the Republican Party' with the debt standoff, says Rep. Raul Labrador, 'and I think that anything we negotiate right now with the president on immigration will be with that same goal in mind' Converting illegal immigrants into citizens has long been a Democratic Party brass ring. And not only, as President Barack Obama told business leaders on Sept. 18, because 'we know ... that that can add potentially a trillion dollars to our economy, and that we will continue to attract the best and brightest talent around the world.' Hispanics are the biggest ethnic group involved in U.S. immigration. In the 2012 elections, 77 per cent of those who voted supported Democratic candidates for Congress, according to the polling group Latino Decisions. Seventy-five per cent voted for Obama. Among Hispanic voters who weren't born in the U.S., Democratic congressional candidates picked up 81 per cent of the vote. Obama rated 80 per cent. In fact, Republicans' share of Hispanic votes in presidential elections peaked in 2004, at 43 per cent before tumbling in the next two elections. And the Pew Research Center has consistently found that large majorities Hispanic voters favor policies that produce governments with bigger footprints and more social programs. 'There are things that we know will help strengthen our economy that we could get done before this year is out,' the president said Wednesday night as focus on the debt-limit fix bill moved from the Senate to the House. 'A law to fix our broken immigration system' was first on his wish-list. More... Report: Senate immigration bill includes nearly $300 million in slush funds for immigrants' rights groups, in language drafted by the former policy chief for one such organization 'Immigrants will be the job creators of tomorrow': Facebook's Mark Zuckerberg goes public with backing of immigration reform Obama HECKLED as he tries to woo Hispanic voters by hailing importance of immigrants to U.S. AMNESTY? 'Gang Of Eight' immigration reform will turn illegal aliens into citizens - in 13 YEARS, and after a 2,000 dollar fine 'You have no right to be in the UK and you should leave': Extraordinary moment immigration minister tells five-time failed asylum seeker to go home on live TV 'We had a very strong Democratic and Republican vote in the Senate,' Obama told the Los Angeles affiliate of the Spanish-language network Univision on Tuesday, comparing it to the debt battle. 'The only thing right now that’s holding it back is again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives.' 'So we’re going to have to get through this crisis that was unnecessary, that was created because of the obsession of a small faction of the Republican Party on the Affordable Care Act. Once that’s done – you know, the day after – I'm going to be pushing to say, "call a vote on immigration reform."' GOP lawmakers hear from conservative who want the borders closed before any immigrants get a path to citizenship, and from those worried about the impact on reduced wages and employment for citizens Demonstrators marched toward Capitol Hill during a immigration rally in Washington on Oct. 8. They wanted to put pressure on House Republicans to vote on a stalled immigration reform bill Republicans in the House are less split on Obamacare than on immigration, with some arguing that rewarding lawbreakers sets a bad example and others pointing to economic advantages of a larger workforce willing to undertake manual labor, and a boom in fast-tracked visas for those with specialized skills. But if Obama thinks he has the GOP on the ropes, an aide to a conservative House Republican lawmaker told MailOnline, he will be surprised by the party unity that will return as soon as someone breathes 'the "A"-word: "Amnesty".' 'Everyone in the House Republican caucus wants to get rid of Obamacare,' the aide said, 'but not everyone agreed killing it was worth going to the mat.' So-called 'DREAMers' are young illegal immigrants who were brought to the U.S. as children. Some Republicans see virtue in providing them special status So-called 'DREAMers' are young illegal immigrants who were brought to the U.S. as children. Some Republicans see virtue in providing them special status 'But we're talking about changing voting patterns for maybe 100 years and creating natural advantages for candidates who will run against our guys. It's like giving my boss 40 pounds of rocks to carry over his shoulder, and letting his challenger walk around with a fanny pack full of feathers.' The debt-limit and shutdown fights, says Idaho GOP Rep. Raul Labrador, may have made immigration advocates' uphill climb even steeper, especially for Republicans who suspect President Obama of having an ulterior motive. 'I think what he's done over the last two and half weeks [is] he’s trying to destroy the Republican Party,' Labrador said Wednesday at the monthly Conversations with Conservatives meeting organized by the Heritage Foundation. 'And I think that anything we negotiate right now with the president on immigration will be with that same goal in mind, which is to destroy the Republican Party and not to get good policies.' 'There are things that we are on the same page about,' Labrador said, 'and if he is unwilling to negotiate on those things I don’t see how he could in good faith negotiate with us on immigration.' House Republicans' strategy so far has been to approach the Senate bill piecemeal, advancing parts of it – border security and more fences, for instance – that GOP leaders like. Speaker John Boehner has said Senate Democrats' more comprehensive approach won't reach the House floor, even though 14 Senate Republicans gave it 'yes' votes. But the fight over the partial government shutdown that occupied half of October may have given Democrats insights into how to combat that strategy. House Republicans offered a series of nearly a dozen one-off bills to fund government agencies and initiatives whose absence became a black eye, including the National Institutes of Health, the Department of Veterans Affairs and salary payments for active-duty military. Obama found he could stave off the pressure to sign all but a few, insisting on an all-or-nothing approach – which he eventually got. 'There are things that we know will help strengthen our economy that we could get done before this year is out,' Obama said Wednesday night: 'We still need to pass a law to fix our broken immigration system' 'There are things that we know will help strengthen our economy that we could get done before this year is out,' Obama said Wednesday night: 'We still need to pass a law to fix our broken immigration system' Immigration reform activists marched in Washington on Oct. 8, occupying portions of the National Mall that wre officially closed as part of a government shutdown Immigration reform activists marched in Washington on Oct. 8, occupying portions of the National Mall that wre officially closed as part of a government shutdown. The National Park Service later said the Obama administration ordered it to provide security. Several Democratic members of Congress were arrested. 'It's different, of course, because there's no economic catastrophe awaiting if Republicans sit on their hands with immigration,' a Democratic campaign strategist told MailOnline on Wednesday. 'But the White House has learned how stubborn some of the Republicans are willing to be. And more important, they've figured out which ones are worth trying to reason with.' House Minority Leader Nancy Pelosi has said she will bring 'any' immigration proposal to her Democratic colleagues in the Senate House Minority Leader Nancy Pelosi has said she will bring 'any' immigration proposal to her Democratic colleagues in the Senate While some Republican moderates will be unwilling to cross the tea party caucus while the sting of the debt defeat is still in the air, others have already signaled their openness to meet Democrats halfway, mostly in one-off measures that carve out pet projects from the larger immigration issue. California Rep. Nancy Pelosi, a long-time supporter of immigration reform, said this month that she will do 'whatever it takes' to find a bill that the House can bring to the Senate. She's open to going to a House-Senate legislative conference with 'one bill, two bills, one at a time, singly, jointly, severally, whatever,' betting that whatever emerges from such a meeting would including 'comprehensive immigration reform that will lead to a pathway to citizenship.' Pelosi may find some help from a few Republicans. The Associated Press reported on Sept. 30 that Rep. Bob Goodlatte, who chairs the House Judiciary Committee, has been openly discussing how to change the immigration status of the 11 million illegal immigrants in the U.S. without awarding them special status. His idea is to allow illegal immigrants to have legal work status – a 'green card' – and then to allow them access to a list of existing routes to citizenship. They could be sponsored by a U.S. company, for instance, or by a relative who's already a citizen. Goodlatte favors this more narrow approach to the Senate's catch-all bill, which has a companion bill in the House that no Republicans have been willing to endorse. House Majority Leader Eric Cantor, another Virginia Republican, is also helping Goodlatte with a bill that would provide a path to citizenship for immigrants brought illegally to the U.S. as children. Idaho Rep. Raul Labrador and Texas Rep. Ted Poe are trying to create a visa program that would target low-skilled workers for migration into the U.S. Several of these narrow proposals have already passed through House committees, and their Republican chairman are hoping they see action. The U.S.-Mexico border fence stretches through the port of entry at San Ysidro. Millions pass through this checkpoint every year, many of them smuggled in. And countless others cross parts of the border where there are no fences The U.S.-Mexico border fence stretches through the port of entry at San Ysidro. Millions pass through this checkpoint every year, many of them smuggled in. And countless others cross parts of the border where there are no fences Some Latinos are angry at President Obama because he hasn't delivered on his promise of comprehensive immigration reform Some Latinos are angry at President Obama because he hasn't delivered on his promise of comprehensive immigration reform. Others are frustrated that the president has dramatically increased the number of illegal immigrants who are deported back to their home countries House Homeland Security Committee chairman Mike McCaul of Texas told the AP that he thinks a series of immigration bills 'would be the next agenda item in the queue after we're done with this [debt limit] mess.' Cantor spokesman Doug Heye insists, however, that while 'moving immigration forward remains a priority ... right now there's no firm timetable.' Goodlatte has said, though, that he wants to see some movement by the end of October on a bill that could give the Senate some basis to negotiate. A senior aide to a southern Republican House member said that ultimately, some Republicans don't want their party to be 'on the wrong side of the new electoral math,' and 'if we can create our own grateful constituency, that's just good politics in addition to doing the right thing.'

#### Obama would fight restrictions on his authority --- fiat means he loses

Scheuerman 13 (William, Professor of Political Science at Indiana University, PhD from Harvard, Barack Obama's "war on terror", Eurozine, 3/7, http://www.eurozine.com/pdf/2013-03-07-scheuerman-en.pdf)

Given dual democratic legitimacy, holders of executive power face deeply rooted institutional incentives to retain whatever power or authority has landed¶ in their laps. Fundamentally, their political fate is separate from that of the¶ legislature's. They have to prove −− on their own −− that they deserve the trust placed in them by the electorate. Unlike prime ministers in parliamentary¶ regimes, they also face strict term limits. As astute observers have noted, this¶ provides political life in presidential regimes with a particular sense of urgency¶ since the executive will only have a short span of time in which to advance his¶ or her program. Presidentialism's strict separation of powers means that the¶ executive will soon likely face potentially hostile opponents who have gained a¶ foothold in the legislature. In the US, for example, even presidents recently¶ elected with large majorities immediately need to worry about looming¶ midterm congressional elections. To be sure, even prime ministers in¶ parliamentary systems will want to get things done. But incentives to do so in a¶ high−speed fashion remain more deeply ingrained in presidential systems.¶ These familiar facts about presidentialism allow us to help make sense of¶ Obama's disappointing record. Without doubt, Obama has been personally as¶ well as ideologically committed to reining in Bush−era executive prerogative.¶ Yet he now occupies an institutional position which necessarily makes him averse to far−reaching attempts to limit his own room for effective political¶ and administrative action, especially when the stakes are high, as is manifestly¶ the case in counterterrorism. Understandably, he needs to worry that the¶ electorate will punish him −− and not the Congress or Supreme Court −− for¶ mistakes which might result in deadly terrorist attacks on US citizens. Given the institutional dynamics of a presidential system characterized by more−or−less permanent rivalry, it is hardly surprising that he has held onto so much of the prerogative power successfully claimed for the executive branch¶ by his right−wing predecessor. As Obama's own political advisors have been¶ vocally telling him since 2009, it might indeed prove politically perilous if he¶ were to go too far in abandoning the substantial discretionary powers he enjoys¶ in the war on terror. Unfortunately, their "sound" political advice −− which¶ indeed may have helped Obama get reelected −− simultaneously has had¶ deeply troublesome humanitarian and legal consequences.

#### Immigration is critical to the growth – every day its delayed is a linear risk for long-term competitiveness

Garfield 13 [Dean Garfield, president and CEO of the Information Technology Industry Council, Mercury News, 02/12/2013, “Dean Garfield: Immigration reform means a stronger Silicon Valley and U.S. economy,” http://www.mercurynews.com/opinion/ci\_22570060/dean-garfield-immigration-reform-means-stronger-silicon-valley]

The recent jobs report and the decline in fourth-quarter GDP growth reinforce that the U.S. economy is teetering on the edge of stalling. The policy decisions made in 2013 will be critical in determining our fate. To ensure a future of renewed prosperity and innovation, we should move quickly to advance immigration reform. As an immigrant who spent six years separated from his mother as she dealt with the immigration bureaucracy, I understand the moral imperative of immigration reform. That said, there should be no doubt that reform is in the best interest of Silicon Valley, of California and of our nation. The data are undeniable. When a foreign-born, advanced-degree graduate from a U.S. university decides to stay here and work in a math or science field, an additional 2.6 jobs are created. Multiply that by 50,000 or 100,000 foreign graduate students, and you begin to see just how forcefully immigration reform can propel the economy. From 1995 through 2005, immigrants founded 25 percent of the venture-backed startups in the U.S., and nearly 50 percent in Silicon Valley. In 2011, immigrant entrepreneurs were responsible for more than one in four new U.S. businesses, and immigrant businesses employ one in every 10 people working for private companies. Immigrants and their children founded 40 percent of Fortune 500 companies. These firms, including dynamic brands like Apple, Google, eBay and IBM, collectively generated $4.2 trillion in revenue in 2010 -- more than the GDP of every country in the world except the United States, China and Japan. Immigration is innovation. Every day that goes by without immigration reform is another day when new jobs and new industries start in foreign countries instead of on American shores. If we want next-generation industries to be founded in San Jose instead of Shenzhen, then our policymakers must seize this moment and produce legislation that all sides can support. If done right, immigration reform will result in a stronger innovation economy for the U.S., with new industries, new jobs and new opportunities. To achieve our full economic potential, we must deal with the entire spectrum of immigrants. Reforming our high-skill system will allow companies to fill tens of thousands of good-paying but vacant jobs in knowledge-dependent sectors. ITI recently co-authored a report with the U.S. Chamber of Commerce and the Partnership for a New American Economy on this topic. It found that immigrants working in science, technology, engineering and math (STEM) fields in the U.S. do not compete with American workers but complement them. Reform can help address our STEM skills gap, reward entrepreneurship and fund a pipeline of homegrown STEM students. If Congress can reach agreement on a fair process to legalize the millions of undocumented immigrants in the United States, experts predict that they would add $1.5 trillion to the U.S. gross domestic product during the next 10 years. This would create a cycle that exerts upward pressure on the wages of both American and immigrant workers. Higher wages and better jobs translate into increased consumer purchasing power, which benefits the U.S. economy. Fortunately, the president and Republicans and Democrats in Congress are forging common ground on a set of policy principles that would serve the national interest. This leadership is a once-in-a-generation opportunity, and all of us who have a stake in an effective immigration system should work to build support for it. We cannot afford to miss this opportunity to turn away from old, misguided stereotypes and toward a stronger American future.

#### Economic collapse causes global nuclear war.

Merlini, Senior Fellow – Brookings, 11

[Cesare Merlini, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? DOI: 10.1080/00396338.2011.571015 Article Requests: Order Reprints : Request Permissions Published in: journal Survival, Volume 53, Issue 2 April 2011 , pages 117 - 130 Publication Frequency: 6 issues per year Download PDF Download PDF (~357 KB) View Related Articles To cite this Article: Merlini, Cesare 'A Post-Secular World?', Survival, 53:2, 117 – 130]

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving the use of nuclear weapons. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism

## CASE

### Solvency

#### No groupthink—Congress wouldn’t help

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 46-47)

The idea that Congress will, on net, weed out bad policies rests on an institutional comparison. The president is elected by a national constituency on a winner-take-all basis (barring the remote chance that the Electoral College will matter), whereas Congress is a summation of local constituencies and thus affords more voice to political and racial minorities. At the level of political psychology, decisionmaking within the executive is prone to group polarization and other forms of groupthink or irrational panic,51 whereas the internal diversity of legislative deliberation checks these forces. At the level of political structure, Congress contains internal veto gates and chokepoints—consider the committee system and the fi libuster rule—that provide minorities an opportunity to block harmful policies, whereas executive decisionmaking is relatively centralized and unitary.

The contrast is drawn too sharply, because in practice the executive is a they, not an it. Presidential oversight is incapable of fully unifying executive branch policies, which means that disagreement flourishes within the executive as well, dampening panic and groupthink and providing minorities with political redoubts.52 Where a national majority is internally divided, the structure of presidential politics creates chokepoints that can give racial or ideological minorities disproportionate influence, just as the legislative process does. Consider the influence of Arab Americans in Michigan, often a swing state in presidential elections.

It is not obvious, then, that statutory authorization makes any difference at all. One possibility is that a large national majority dominates both Congress and the presidency and enacts panicky policies, oppresses minorities, or increases security in ways that have ratchet effects that are costly to reverse. If this is the case, a requirement of statutory authorization does not help. Another possibility is that there are internal institutional checks, within both the executive branch and Congress, on the adoption of panicky or oppressive policies and that democratic minorities have real infl uence in both arenas. If this is the case, then a requirement of authorization is not necessary and does no good. Authorization only makes a difference in the unlikely case where the executive is thoroughly panicky, or oppressively majoritarian, while Congress resists the stampede toward bad policies and safeguards the interests of oppressed minorities.

Even if that condition obtains, however, the argument for authorization goes wrong by failing to consider both sides of the normative ledger. As for majoritarian oppression, the multiplicity of veto gates within Congress may allow minorities to block harmful discrimination, but it also allows minorities to block policies and laws which, although targeted, are nonetheless good. As for panic and irrationality, if Congress is more deliberative, one result will be to prevent groupthink and slow down stampedes toward bad policies, but another result will be to delay necessary emergency measures and slow down stampedes toward good policies. Proponents of the authorization requirement sometimes assume that quick action, even panicky action, always produces bad policies. But there is no necessary connection between these two things; expedited action is sometimes good, and panicky crowds can stampede either in the wrong direction or in the right direction. Slowing down the adoption of new policies through congressional oversight retards the adoption not only of bad policies, but also of good policies that need to be adopted quickly if they are to be effective.

#### No escalation—executives will be responsible

Weiner 2007

Michael Anthony, J.D. Candidate, Vanderbilt School of Law, 2007, “A Paper Tiger with Bite: A Defense of the War Powers Resolution,” http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Weiner.pdf

IV. CONCLUSION: THE EXONERATED WPR AND THE WOLF IN SHEEP'S CLOTHING The WPR is an effective piece of war powers legislation. As Part III made clear, no presidential unilateral use of force since 1973 has developed into a conflict that in any way resembles the WPR's impetus, Vietnam. Rather, the great majority of these conflicts have been characterized by their brevity, safety, and downright success. Yes, there have been tragic outcomes in Lebanon and Somalia; but what happened in response to those tragedies? In Lebanon, President Reagan actually submitted to being Congress's "messengerboy," 203 asking for its permission, per the WPR, to continue the operation. And in Somalia, at the first sight of a looming disaster, it was President Clinton who cut short the operation. Thus, from 1973 on, it is easy to argue that sitting Executives have made responsible use of their power to act unilaterally in the foreign affairs realm. The WPR has even contributed to a congressional resurgence in the foreign affairs arena. In many of these conflicts, we have seen Congress conducting numerous votes on whether and how it should respond to a unilaterally warring Executive. In some of the conflicts, Congress has come close to invoking the WPR against rather impetuous Executives. 20 4 In Lebanon, Congress actually succeeded in the task.20 5 It is this Note's contention, though, that even when Congress failed to legally invoke the WPR, these votes had normative effects on the Executives in power. Such votes demonstrate that Congress desires to be, and will try to be, a player in foreign affairs decisions. So, perhaps the enactment of the WPR, the rise of Congress (at least in the normative sense) and the successful string of unilateral presidential uses of force are just a series of coincidences. This Note, however, with common sense as its companion, contends that they are not. Rather, it is self-evident that the WPR has played a significant role in improving the implementation of presidential unilateral uses of force.

#### Limited expertise and weak budgetary power prevent effective congressional control.

Zegart 11 [Amy B. Zegart Amy Zegart is co-director of the Center for International Security and Cooperation, a senior fellow at the Hoover Institution, and professor of political economy at Stanford's Graduate School of Business, “The Domestic Politics of Irrational Intelligence Oversight,” Political Science Quarterly 126 (Spring 2011): 1–27, http://media.hoover.org/sites/default/files/documents/FutureChallenges\_Zegart.pdf]

Congress is another story. Although Congress has been instrumental in many post-9/11 executive branch reforms, it has been largely unable to reform itself. In 2004, the 9/11 Commission called congressional oversight “dysfunctional” and warned that fixing oversight weaknesses would be both essential to US national security and exceedingly difficult to achieve.1 By 2007, Lee Hamilton, who served as the commission’s vice chairman and earlier as chairman of the House Permanent Select Committee on Intelligence, delivered an angry and ominous warning to the Senate Intelligence Committee:¶ To me, the strong point simply is that the Senate of the United States and the House of the United States is [sic] not doing its job. And because you’re not doing the job, the country is not as safe as it ought to be. . . . You’re dealing here with the national security of the United States, and the Senate and the House ought to have the deep down feeling that we’ve got to get this thing right.2¶ Hamilton’s words prompted vigorous nods of agreement across the aisle but never made headlines or produced major changes.3 The committee’s own reform centerpiece—consolidating appropriations and authorization powers—quickly and quietly died. In January 2010, the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism concluded that congressional intelligence and homeland security reform efforts were still failing to achieve their desired results.4¶ This essay examines the roots of weak intelligence oversight and why these deficiencies have persisted for so long. Since 9/11, most explanations have focused on the Bush administration and the extent to which executive branch officials withheld information from Congress about secret and controversial programs such as the National Security Agency’s warrantless wiretapping, the CIA’s use of harsh interrogation methods, and the establishment of CIA black sites to detain suspected terrorists abroad.5 Executive branch secrecy, however, is not the entire story. Congress has also struggled to bolster its own intelligence oversight capabilities, with limited success. What former Senate Intelligence Committee chairman John D. Rockefeller, IV, has called the “long and sordid history” of congressional oversight weaknesses began before 9/11 and continues today.6¶ I argue that many of Congress’s enduring oversight troubles lie with Congress and two institutional deficiencies in particular: limited expertise and weak budgetary power over the Intelligence Community. This is no accident. In both areas, electoral incentives and internal congressional turf battles have led Congress to tie its own hands. The result is an intelligence oversight system that is well designed to serve the reelection interests of individual legislators and protect congressional committee prerogatives but poorly designed to serve the national interest.

#### Statute’s meaningless – the executive will just reinterpret the plan to suit him

Lederman 9 [Gordon, National Security Reform for the Twenty-first Century: A New National Security Act and Reflections on Legislation’s Role in Organizational Change, headed the Project on National Security Reform’s Legal Working Group from 2007 to 2009. Currently a Congressional staffer, he served on the staff of the National Commission on Terrorist Attacks upon the United States (the “9/11 Commission”) from May 2003 to July 2004. This article is based on an address delivered to the National Security Law Section at the Association of American Law Schools’ annual meeting in 2009. JOURNAL OF NATIONAL SECURITY LAW &POLICY [Vol. 3:363 2009] LEGISLATION’S ROLE IN ORGANIZATIONAL CHANGE 367]

Legislative language often is a ball shot into the pinball game of the executive branch. It is not always clear or under Congress’s control how statutory language will be interpreted by executive branch actors. Vague language can be molded, interpreted within a cultural context, misinterpreted, and manipulated for bureaucratic ends. Legislative drafters must be focused on how departments will interpret statutory text in practice and must be aware of the conventions that have developed regarding particular language.

#### DOD says PMCs are civilians – plan doesn’t affect them and causes shift

Isenberg, 13 David Isenberg is the author of the book Shadow Force: Private Security Contractors in Iraq and blogs at The PMSC Observer. He is a senior analyst at Wikistrat and a Navy veteran. Time Magazine Jan. 07, 2013

Thinking of Suing a Private Military Contractor? There May Be a Way…

http://nation.time.com/2013/01/07/thinking-of-suing-a-private-military-contractor-there-may-be-a-way/

The Koohi test is a better approach than the Saleh test because the Saleh test introduces an additional step that is unrelated to the combatant activities exception and the Boyle analysis. The additional step allows private military contractors to be granted immunity when the “private service contractor is integrated into combatant activities over which the military retains command authority.” The military and the Executive Branch have been clear that the military does not retain command or control over private military contractors. In Army field manuals that were current during the Saleh litigation, the Army stated that private military contractors are not part of the “chain of command” and that commanders do not have “direct control over contractors or their employees.” The Army field manuals also stated that “only contractors directly manage and supervise their employees” and “it must be clearly understood that commanders do not have direct control over contractor employees.” Additionally, the contractor has the “most immediate influence” in dealing with disciplinary problems with employees. Updated Army manuals state similar propositions, saying, “Contractor personnel are not part of the operational chain of command. They are managed in accordance with terms and conditions of their contract.” The Department of Defense has stated that “contractor personnel are civilians accompanying the U.S. Armed Forces.”

#### Outsourcing to PMCs causes massive human rights violations and violence

#### U.S. Newswire 2k6

(May 23, 2006, AIUSA to Highlight Emerging Problems with Private Military Contractors During 2006 Annual Report Release, pg Lexis)

Amnesty International USA (AIUSA) today highlighted the role of private military contractors in the U.S. government's current system for outsourcing key military detention, security and intelligence operations. Such outsourcing fuels serious human rights violations and undermines accountability, the organization stated at the release of its 2006 Annual Report on the status of human rights in 150 countries. "The United States has become a world leader in avoiding human rights accountability; a case in point is the reliance of the United States government on private military contractors, which has helped create virtually rules-free zones sanctioned with the American flag and fire power," said Larry Cox, who became AIUSA's executive director May 1. "Business outsourcing may increase efficiency, but war outsourcing may be facilitating impunity. Contractors' illegal behavior and the reluctance of the U.S. government to bring them to justice are further tarnishing the United States' reputation abroad, hurting the image of American troops and contributing to anti-American sentiment. These results are a distressing return on the U.S. taxpayers' billion-dollar- plus investment and undermine what remains of U.S. moral authority abroad." In the rush to war and with little notice, the U.S. government has outsourced billions of dollars in contracts to private military contractors, leaving to civilians some of the most essential and sensitive functions in the war, including protecting supply convoys, translating during interrogations and conducting interrogations. Despite the weak requirements for reporting crimes, allegations have surfaced implicating civilians working for the U.S. government in mistreatment of Iraqi and Afghan civilians, including hundreds of incidents of shootings at Iraqi civilians, several deaths in custody and involvement in the Abu Ghraib torture scandal. Major General George Fay's report on detainee abuse at Abu Ghraib detailed the involvement of two private military companies -- Arlington, Va.-based CACI (NYSE: CAI) and BTG, a subsidiary of San Diego-based Titan Corporation (NYSE: TTN) -- at that notorious prison facility. Titan, under an INSCOM contract with a current ceiling of approximately $650 million, has provided hundreds of linguists. CACI provided interrogators and other intelligence-related personnel under a contract with the National Business Center of the Interior beginning in September 2003. An Army Inspector General's report found that 35 percent of CACI's Iraqi interrogators had no "formal training in military interrogation policies and techniques," let alone training in the standards of international law. Currently the contractors operate in a virtually rules-free zone; they are exempt from Iraqi law per a Coalition Provisional Authority order and they fall outside the military chain of command. Of the 20 known cases of alleged misconduct by civilians in the war on terror that were forwarded by the Pentagon and CIA to the U.S. Department of Justice for investigation, DOJ has dismissed two, brought one indictment, while the remaining 17 are classified as open.

### PGS

#### CPGS is off the table – lack of funding.

Acton 13 [James M. Acton is a senior associate in the Nuclear Policy Program at the Carnegie Endowment. A physicist by training, Acton specializes in deterrence, disarmament, nonproliferation, and nuclear energy. He is a member of the Trilateral Commission on Challenges to Deep Cuts and was co-chair of the Next Generation Working Group on U.S.-Russian Arms Control. Silver Bullet, 2013, http://carnegieendowment.org/files/cpgs.pdf]

Critical decisions about CPGS will be made in the next two to three years. The United States must decide which systems—if any—to acquire, which immature technologies are sufficiently promising to merit further research and development funding, and which pathways should be abandoned. In parallel, the U.S. administration will also have to decide whether and how to invest in the enabling capabilities needed to support CPGS, most notably intelligence, surveillance, and reconnaissance. Even at a time of rising defense budgets, CPGS acquisition decisions would be expected to receive close scrutiny from Congress, as its handling of the Conventional Trident Modification plan exemplifies. For the foreseeable future, however, severe downward pressures on the defense budget will force lawmakers to choose between competing programs, heightening the probable degree of scrutiny. Indeed, CPGS has not been immune to the budgetary pressures now felt across the U.S. government. Obama’s latest budget, released in April 2013, calls for reductions in CPGS funding by about 40 percent compared to the previous year and restructures the program significantly. If sequestration—across-theboard spending cuts imposed in early 2013 under the Budget Control Act of 2011—is not rolled back, the affordability of the entire program may be called into question.

#### No clear mission role ensures it won’t survive the sequester.

Acton 13 [James M. Acton is a senior associate in the Nuclear Policy Program at the Carnegie Endowment. A physicist by training, Acton specializes in deterrence, disarmament, nonproliferation, and nuclear energy. He is a member of the Trilateral Commission on Challenges to Deep Cuts and was co-chair of the Next Generation Working Group on U.S.-Russian Arms Control. Silver Bullet, 2013, http://carnegieendowment.org/files/cpgs.pdf]

The slow pace of policy development does not mean there are no potential roles that CPGS could fill. A number of potential missions for CPGS have been proposed, ranging from killing terrorists at the “low end” to destroying nuclear-armed mobile missiles at the “high end.” However, the distinct requirements of different potential missions tend to be obscured by talking generally about defeating distant, time-critical, high-value targets, as U.S. government officials tend to do (at least in public). Unless CPGS is developed to meet specific missions, the technology risks remaining, in the words of a defense contractor, a “missile in search of a mission.” It is unlikely that such a program could survive the present budgetary environment.

#### No risk of miscalc.

Scheber and Guthe ’13, Thomas Scheber, vice president of National Institute for Public Policy, served in the Office of the Secretary of Defense, former naval aviator, B.S. in mathematics and M.S. in operations research from the naval academy, & Kurt Guthe, director for strategic studies at NIPP, defense expert, “Conventional Prompt Global Strike: A Fresh Perspective,” http://www.tandfonline.com/doi/pdf/10.1080/01495933.2013.754151

There are at least three reasons to believe the danger of nuclear ambiguity is exaggerated¶ and insufficient to warrant rejection of CPGS options. First, certain characteristics of CPGS¶ weapon systems will make them discernibly different from nuclear-armed ballistic missiles.¶ Second, early warning and attack assessment capabilities, notably those of Russia, can¶ detect these differences. Third, past experience suggests that a reflexive nuclear response¶ is unlikely to be the reaction of decision makers to technical indications that a small-scale¶ missile attack had been launched. Discussion of each of these reasons follows.

Distinguishable Characteristics of CPGS Systems¶ Each type of CPGS weapon system will have what might be termed a “discrimination¶ profile.” Its basing mode and firing location, launch signature, midcourse path, and terminal¶ flight comprise the profile. Countries with the technical capabilities to monitor U.S. missile¶ launches should be able to observe the differences between the profiles of CPGS systems¶ and those of nuclear-armed ICBMs and SLBMs. Countries without such capabilities would¶ receive no warning, real or spurious, of a strike, rendering the issue of nuclear ambiguity¶ moot for them.¶ Figure 1 depicts the discrimination profiles for the five CPGS options described earlier.¶ For each option, its observable characteristics are compared with those of U.S. legacy¶ nuclear weapon systems—ICBMs and SLBMs—and the differences are rated on a scale of¶ “high,” “medium,” and “low.”

Basing mode and firing location. The origin of a launch might be determined through¶ satellite surveillance or by other means. In the figure, CSM, AHW and ArcLight (when¶ ship-launched) are rated as “high.” The coastal-based CSM and forward-deployed AHW¶ would be launched at locations distant from the Minuteman III ICBM fields in Montana,¶ Wyoming, and North Dakota. The firing of ArcLight missiles from surface ships would¶ be distinct from the launch of Trident II SLBMs by SSBNs. Moreover, ship-launched¶ ArcLight missiles might be fired from locations other than known deployment areas for¶ SSBNs. The Sea Strike missile and sub-launched ArcLight missile are both assigned a¶ rating of “medium.” With these missiles being launched from submerged SSGNs (Sea¶ Strike) or SSNs (Sea Strike and ArcLight), the possibility they had been fired by an SSBN¶ with nuclear-armed SLBMs could not be excluded. This possibility might be less of a¶ problem if the launches occurred well outside SSBN deployment areas, such as in the¶ northern Arabian Sea or Persian Gulf. For the CTM, the observable difference from a¶ nuclear Trident II would be “low” because the missile, launch platform, and deployment¶ areas are similar. It should be pointed out, however, that other countries would be aware¶ that only a limited number of CTM missiles were deployed on SSBNs, and thus would¶ have reason not to react precipitately to the launch of a few.¶

Launch signature. Early warning satellites would pick up the launch of nuclear-armed¶ ballistic missiles ormissiles for conventional prompt global strike. These satellites typically¶ observe the infrared (IR) signature from the first stage of a missile. Each type of missile¶ has a unique IR signature because its specific design requirements for payload and range¶ determine the needed thrust and duration of burn for the first-stage engine. IR sensors of early warning satellites would detect the launch location and distinct signature of a missile,¶ aiding the observing country in distinguishing the launch of a CPGS missile from one¶ involving a nuclear-armed ICBM or SLBM. The new boosters developed for the AHW, Sea¶ Strike, and ArcLight would make the differences between their launch signatures and those¶ of deployed nuclear missiles “high.” The signature of the first stage of the conventional¶ strike missile would be discernible as powerful enough to be that of an intercontinentalrange¶ missile, but different from those of the Minuteman III and Trident II, giving the CSM¶ option a “medium” rating. The booster for the CTM and the nuclear Trident II is the same,¶ making the difference between their IR signatures “low” or nonexistent.

Midcourse path. “Midcourse” refers to the path traveled in the exoatmosphere after booster¶ burnout and before atmospheric reentry. Early warning and long-range tracking radars that¶ are ground based, like those maintained by Russia, can follow objects high above the earth.¶ Russia and other countries have a detailed understanding of the performance parameters¶ of U.S. ballistic missiles that is based on their routine monitoring of missile flight tests.¶ Knowledge of these parameters can be used to predict accurately the impact points of¶ ballistic missile reentry vehicles. The trajectories of the CSM, AHW, Sea Strike, and¶ ArcLight all would differ from those of nuclear-armed ballistic missiles, with their apogees¶ roughly 90 percent lower. The observable difference, then, would be “high.” Similarity with¶ the trajectory of the Trident II gives theCTM a “low” mark with regard to this characteristic.

Terminal flight. Some countries may be able to track weapon-carrying vehicles as they¶ reenter the atmosphere and approach their targets. Currently, all U.S. nuclear reentry vehicles¶ are purely ballistic and cannot maneuver in this terminal phase. In contrast, payload¶ delivery vehicles bearing conventional weapons must maneuver to achieve the accuracy¶ needed to make those weapons effective. With their hypersonic boost-glide vehicles that¶ are non-ballistic and maneuvering, the CSM, AHW, Sea Strike, and ArcLight all would¶ have a “high” degree of observable difference from ballistic reentry vehicles that are¶ nuclear. The modified Mk-4 reentry body carried by the CTM would be near ballistic,¶ with less maneuverability for accurate delivery. Consequently, CTM is rated somewhat¶ lower—“medium”—in this category.

#### Rationality checks miscalculation.

Quinlan 9 [Sir Michael, co-founder and President Emeritus of the International Institute for Strategic Studies, 2009, Thinking About Nuclear Weapons: Principle, Problems, Prospects, p. 68-71]

Similar considerations apply to the hypothesis of nuclear war being mistakenly triggered by false alarm. Critics again point to the fact, as it is understood, of numerous occasions when initial steps in alert sequences for US nuclear forces were embarked upon, or at least called for, by indicators mistaken or misconstrued. In none of these instances, it is accepted, did matters get at all near to nuclear launch-extraordinary good fortune again, critics have suggested. But the rival and more logical inference from hundreds of events stretching over sixty years of experience presents itself once more: that the probability of initial misinterpretation leading far towards mistaken launch is **remote.** Precisely because any nuclear-weapon possessor recognizes the vast gravity of any launch, release sequences have many steps, and human decision is repeatedly interposed as well as capping the sequences. To convey that because a first step was prompted the world somehow came close to accidental nuclear war is wild hyperbole, rather like asserting, when a tennis champion has lost his opening service game, that he was nearly beaten in straight sets. History anyway scarcely offers any ready example of major war started by accident even before the nuclear revolution imposed an order-of-magnitude increase in caution. It was occasionally conjectured that nuclear war might be triggered by the real but accidental or unauthorized launch of a strategic nuclear-weapon delivery system in the direction of a potential adversary. No such launch is known to have occurred in over sixty years. The probability of it is therefore **very low.** But even if it did happen, the further hypothesis of its initiating a general nuclear exchange is **far-fetched.** It fails to consider the real situation of decision-makers, as pages 63-4 have brought out. The notion that cosmic holocaust might be mistakenly precipitated in this way belongs to science fiction. One special form of miscalculation appeared sporadically in the speculations of academic commentators, though it was scarcely ever to be encountered-at least so far as my own observation went-in the utterances of practical planners within government. This is the idea that nuclear war might be erroneously triggered, or erroneously widened, through a state under attack misreading either what sort of attack it was being subjected to, or where the attack came from. The postulated misreading of the nature of the attack referred in particular to the hypothesis that if a delivery system-normally a missile-that was known to be capable of carrying either a nuclear or a conventional warhead was launched in a conventional role, the target country might, on detecting the launch through its earlywarning systems, misconstrue the mission as an imminent nuclear strike and immediately unleash a nuclear counter-strike of its own. This conjecture was voiced, for example, as a criticism of the proposals for giving the US Trident SLBM, long associated with nuclear missions, a capability to deliver conventional warheads. Whatever the merit of those proposals (it is not explored here), it is hard to regard this particular apprehension as having any real-life credibility. The flight time of a ballistic missile would not exceed about thirty minutes, and that of a cruise missile a few hours, before arrival on target made its character-conventional or nuclear-unmistakable. No government will need, and no nonlunatic government could wish, to take within so short a span of time a step as enormous and irrevocable as the execution of a nuclear strike on the basis of early-warning information alone without knowing the true nature of the incoming attack. The speculation tends moreover to be expressed without reference either to any realistic political or conflict-related context thought to render the episode plausible, or to the manifest interest of the launching country, should there be any risk of doubt, in ensuring-by explicit communication if necessary-that there was no misinterpretation of its conventionally armed launch.

### SOP

#### Even if the plan sets a precedent, that doesn’t increase congressional power across the board. Obama is expanding executive authority in other areas like the environment.

EnergyWashington Week 9/18 [Obama Faces Limits Using Executive Power For Second Term EPA Agenda, L/N]

President Obama is using executive power to circumvent Congress and achieve key EPA policy goals in his second term, such as crafting first-time climate rules for existing and future power plants, but sources say the effort faces limits as it does not grant the agency any new powers and will likely remain a last-resort option for policies. In addition to the already announced executive order on facility security and a presidential memo directing EPA to develop the power plant climate rules, sources suggest Obama might pursue executive orders to help create infrastructure that is "resilient" to extreme weather events; clarify the scope of the Clean Water Act (CWA) in lieu of a controversial rule on the issue; coordinate federal agencies' consideration of environmental justice in rulemakings; and require new interagency consultation on the environmental and other impacts of the proposed Keystone XL pipeline.

#### SOP resilient

Rosman 96 [Michael E. Rosman (General Counsel @ Center for Individual Rights; JD from Yale); Review of “FIGHTING WORDS: INDIVIDUALS, COMMUNITIES AND LIBERTIES OF SPEECH”; Constitutional Commentary 96 (Winter, p. 343-345)]

Of course, the other branches also shove at the boundaries of branch power--FDR's Court-packing plan being one notable example of this practice. Sometimes the law of unintended consequences grabs hold. Perhaps the Court-packing plan concentrated the Justices' minds on finding ways to hold New Deal legislation constitutional, but it also blew up in FDR's face politically.

At least for the last two hundred years, however, no branch has managed to expand its power to the point of delivering an obvious knock-out blow to another branch. Seen from this broader perspective, cases such as Morrison,(33) Bowsher v. Synar,(34) and Mistretta v. United States(35) surely alter the balance of branch power at a given historical moment, but do not change the fundamental and brute fact that the Constitution puts three institutional heavyweights into a ring where they are free to bash each other.

Judicialocentrism tends to obscure this obvious point because it causes people to dwell on the hard cases that reach the Supreme Court. The power of separation of powers, however, largely resides in its ability to keep the easy cases from ever occurring. For instance, Congress, although it tries to weaken the President from time to time, has not tried to reduce the President to a ceremonial figurehead a la the Queen of England. Similarly, Congress does not make a habit of trying cases that have been heard by the courts. This list could be continued indefinitely.

The Supreme Court has had two hundred years to muck about with separation-of-powers doctrine. Over that time, scores of Justices--each with his or her own somewhat idiosyncratic view of the law--have sat on the bench. Scholars have denounced separation-of-powers jurisprudence as a mess. But the Republic endures, at least more or less. These historical facts tend to indicate that the Court need not rush to change its approach to separation of powers to prevent a slide into tyranny.

#### No reverse causal—countries won’t magically clean up their act

**Chodosh 03** (Hiram, Professor of Law, Director of the Frederick K. Cox International Law Center, Case Western Reserve University School of Law, 38 Tex. Int'l L.J. 587, lexis)

Exposure to foreign systems is helpful but seldom sufficient for effective reform design. Reform models are more likely to be successful if they are not merely copied or transplanted into the system. The argument that transplants are easy and common (though based on substantial historical evidence) profoundly undervalues the relationship between law and external social objectives.

103 Furthermore, reforms conceived as blunt negations of [\*606] the status quo are not likely to be successful. 104 Reform proposals based on foreign systems or in reaction to (or as a negation of) recent domestic experience require careful adaptation to local circumstances and conditions. However, most communities are not familiar with the tools of adaptation and tend to think of foreign models as package deals to accept or reject (but rarely to alter), and alterations tend to graft one institution onto another without comprehensive consideration of the system as a whole. 105

#### US Policy irrelevant to global human rights adoption

Andrew Moravcsik 5, PhD and a Professor of Politics and International Affairs at Princeton, 2005, "The Paradox of U.S. Human Rights Policy," American Exceptionalism and Human Rights, http://www.princeton.edu/~amoravcs/library/paradox.pdf

It is natural to ask: What are the consequences of U.S. "exemptionalism” and noncompliance? International lawyers and human rights activists regularly issue dire warnings about the ways in which the apparent hypocrisy of the United States encourages foreign governments to violate human rights, ignore international pressure, and undermine international human rights institutions. In Patricia Derian's oft-cited statement before the Senate in I979: "Ratification by the United States significantly will enhance the legitimacy and acceptance of these standards. It will encourage other countries to join those which have already accepted the treaties. And, in countries where human rights generally are not respected, it will aid citizens in raising human rights issues.""' One constantly hears this refrain. Yet there is little empirical reason to accept it. Human rights norms have in fact spread widely without much attention to U.S. domestic policy. In the wake of the "third wave" democratization in Eastern Europe, East Asia, and Latin America, government after government moved ahead toward more active domestic and international human rights policies without attending to U.S. domestic or international practice." The human rights movement has firmly embedded itself in public opinion and NGO networks, in the United States as well as elsewhere, despite the dubious legal status of international norms in the United States. One reads occasional quotations from recalcitrant governments citing American noncompliance in their own defense-most recently Israel and Australia-but there is little evidence that this was more than a redundant justification for policies made on other grounds. Other governments adhere or do not adhere to global norms, comply or do not comply with judgments of tribunals, for reasons that seem to have little to do with U.S. multilateral policy.

#### Authoritarian states don’t follow norms

John O. McGinnis 7, Professor of Law, Northwestern University School of Law. \*\* Ilya Somin \*\* Assistant Professor of Law, George Mason University School of Law. GLOBAL CONSTITUTIONALISM: GLOBAL INFLUENCE ON U.S. JURISPRUDENCE: Should International Law Be Part of Our Law? 59 Stan. L. Rev. 1175

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones.

The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied.

Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

### Warfighting

#### Obama’s not Bush—no backlash to liberal order

Aziz 13 (Omer, graduate student at Cambridge University, is a researcher at the Center for International and Defense Policy at Queen’s University, “The Obama Doctrine's Second Term,” Project Syndicate, 2-5, <http://www.project-syndicate.org/blog/the-obama-doctrine-s-second-term--by-omer-aziz>)

The Obama Doctrine’s first term has been a remarkable success. After the $3 trillion boondoggle in Iraq, a failed nation-building mission in Afghanistan, and the incessant saber-rattling of the previous Administration, President Obama was able to reorient U.S. foreign policy in a more restrained and realistic direction.

He did this in a number of ways. First, an end to large ground wars. As Defense Secretary Robert Gates put it in February 2011, anyone who advised future presidents to conduct massive ground operations ought “to have [their] head examined.” Second, a reliance on Secret Operations and drones to go after both members of al Qaeda and other terrorist outfits in Pakistan as well as East Africa. Third, a rebalancing of U.S. foreign policy towards the Asia-Pacific — a region neglected during George W. Bush's terms but one that possesses a majority of the world’s nuclear powers, half the world’s GDP, and tomorrow’s potential threats. Finally, under Obama's leadership, the United States has finally begun to ask allies to pick up the tab on some of their security costs. With the U.S. fiscal situation necessitating retrenchment, coupled with a lack of appetite on the part of the American public for foreign policy adventurism, Obama has begun the arduous process of burden-sharing necessary to maintain American strength at home and abroad.

What this amounted to over the past four years was a vigorous and unilateral pursuit of narrow national interests and a multilateral pursuit of interests only indirectly affecting the United States.

Turkey, a Western ally, is now leading the campaign against Bashar al-Assad’s regime in Syria. Japan, Korea, India, the Philippines, Myanmar, and Australia all now act as de facto balancers of an increasingly assertive China. With the withdrawal of two troop brigades from the continent, Europe is being asked to start looking after its own security. In other words, the days of free security and therefore, free riding, are now over.

The results of a more restrained foreign policy are plentiful. Obama was able to assemble a diverse coalition of states to execute regime-change in Libya where there is now a moderate democratic government in place. Libya remains a democracy in transition, but the possibilities of self-government are ripe. What’s more, the United States was able to do it on the cheap. Iran’s enrichment program has been hampered by the clandestine cyber program codenamed Olympic Games. While Mullah Omar remains at large, al Qaeda’s leadership in Afghanistan and Pakistan has been virtually decimated. With China, the United States has maintained a policy of engagement and explicitly rejected a containment strategy, though there is now something resembling a cool war — not yet a cold war — as Noah Feldman of Harvard Law School puts it, between the two economic giants.

The phrase that best describes the Obama Doctrine is one that was used by an anonymous Administration official during the Libya campaign and then picked up by Republicans as a talking point: Leading From Behind. The origin of the term dates not to weak-kneed Democratic orthodoxy but to Nelson Mandela, who wrote in his autobiography that true leadership often required navigating and dictating aims ‘from behind.’ The term, when applied to U.S. foreign policy, has a degree of metaphorical verity to it: Obama has led from behind the scenes in pursuing terrorists and militants, is shifting some of the prodigious expenses of international security to others, and has begun the U.S. pivot to the Asia-Pacific region. The Iraq War may seem to be a distant memory to many in North America, but its after-effects in the Middle East and Asia tarnished the United States' image abroad and rendered claims to moral superiority risible. Leading From Behind is the final nail in the coffin of the neoconservatives' failed imperial policies.

#### Soft power fails - empirics

Drezner 11

Daniel W. Drezner, Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University, Foreign Affairs, July/August 2011, "Does Obama Have a Grand Strategy?", <http://www.foreignaffairs.com/print/67869>

What went wrong? The administration, and many others, erred in believing that improved standing would give the United States greater policy leverage. The United States' standing among foreign publics and elites did rebound. But this shift did not translate into an appreciable increase in the United States' soft power. Bargaining in the G-20 and the UN Security Council did not get any easier. Soft power, it turns out, cannot accomplish much in the absence of a willingness to use hard power. The other problem was that China, Russia, and other aspiring great powers did not view themselves as partners of the United States. Even allies saw the Obama administration's supposed modesty as a cover for shifting the burden of providing global public goods from the United States to the rest of the world. The administration's grand strategy was therefore perceived as promoting narrow U.S. interests rather than global public goods.

#### ANY alt cause takes out the aff

**Gray ’11** [Colin S, Professor of International Politics and Strategic Studies at the University of Reading, England, and Founder of the National Institute for Public Policy, “Hard Power And Soft Power: The Utility Of Military Force as An Instrument Of Policy In The 21st Century,” April, http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=1059]

It bears repeating because it passes unnoticed that culture, and indeed civilization itself, are dynamic, not static phenomena. They are what they are for good and sufficient local geographical and historical reasons, and cannot easily be adapted to fit changing political and strategic needs. For an obvious example, the dominant American strategic culture, though allowing exceptions, still retains its principal features, the exploitation of technology and mass.45 These features can be pathological when circumstances are not narrowly conducive to their exploitation. Much as it was feared only a very few years ago that, in reaction to the neglect of culture for decades previously, the cultural turn in strategic studies was too sharp, so today there is a danger that the critique of strategic culturalism is proceeding too far.46 The error lies in the search for, and inevitable finding of, “golden keys” and “silver bullets” to resolve current versions of enduring problems. Soft-power salesmen have a potent product-mix to sell, but they fail to appreciate the reality that American soft power is a product essentially **unalterable** over a short span of years. As a country with a cultural or civilizational brand that is unique and mainly rooted in deep historical, geographical, and ideational roots, America is not at liberty to emulate a major car manufacturer and advertise an extensive and varied model range of persuasive soft-power profiles. Of course, some elements of soft power can be emphasized purposefully in tailored word and deed. However, foreign perceptions of the United States are no more developed from a blank page than the American past can be retooled and fine-tuned for contemporary advantage. Frustrating though it may be, **a country cannot easily escape legacies from its past**.

#### Liberal international order and rule of law inevitable – even without the US

Ikenberry 11

G. JOHN IKENBERRY is Albert G. Milbank Professor of Politics and International Affairs at Princeton University and the author of Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order, Foreign Affairs, May/Jun 2011, “The Future of the Liberal World Order: Internationalism After America”, 56-68 //jchen

But this panicked narrative misses a deeper reality: although the United States' position in the global system is changing, the liberal international order is alive and well. The struggle over international order today is not about fundamental principles. China and other emerging great powers do not want to contest the basic rules and principles of the liberal international order; they wish to gain more authority and leadership within it.

Indeed, today's power transition represents not the defeat of the liberal order but its ultimate ascendance. Brazil, China, and India have all become more prosperous and capable by operating inside the existing international order-benefiting from its rules, practices, and institutions, including the World Trade Organization (WTO) and the newly organized g-20. Their economic success and growing influence are tied to the liberal internationalist organization of world politics, and they have deep interests in preserving that system.

In the meantime, alternatives to an open and rule-based order have yet to crystallize. Even though the last decade has brought remarkable upheavals in the global system-the emergence of new powers, bitter disputes among Western allies over the United States' unipolar ambitions, and a global financial crisis and recession-the liberal international order has no competitors. On the contrary, the rise of non-Western powers and the growth of economic and security interdependence are creating new constituencies for it.

To be sure, as wealth and power become less concentrated in the United States' hands, the country will be less able to shape world politics. But the underlying foundations of the liberal international order will survive and thrive. Indeed, now may be the best time for the United States and its democratic partners to update the liberal order for a new era, ensuring that it continues to provide the benefits of security and prosperity that it has provided since the middle of the twentieth century.

THE LIBERAL ASCENDANCY

China and the other emerging powers do not face simply an American-led order or a Western system. They face a broader international order that is the product of centuries of struggle and innovation. It is highly developed, expansive, integrated, institutionalized, and deeply rooted in the societies and economies of both advanced capitalist states and developing states. And over the last half century, this order has been unusually capable of assimilating rising powers and reconciling political and cultural diversity.

# 2NC

### Turns Case – Legitimacy

#### Declining military power destroys global U.S. diplomatic influence

Holmes 9 – Kim R. Holmes, Ph.D., Vice President for Foreign and Defense Policy Studies and Director of the Davis Institute for International Studies at the Heritage Foundation, June 1, 2009, “Sustaining American Leadership with Military Power,” online: http://s3.amazonaws.com/thf\_media/2009/pdf/sr0052.pdf

The consequences of hard-power atrophy will be a direct deterioration of America’s diplomatic clout. This is already on display in the western Pacific Ocean, where America’s ability to hedge against the growing ambitions of a rising China is being called into question by some of our key Asian allies. Recently, Australia released a defense White Paper that is concerned primarily with the potential decline of U.S. military primacy and the implications that this decline would have for Australian security and stability in the Asia–Pacific. These developments are anything but reassuring.

The ability of the United States to reassure friends, deter competitors, coerce belligerent states, and defeat enemies does not rest on the strength of our political leaders’ commitment to diplomacy; it rests on the foundation of a powerful military. Only by retaining a “big stick” can the United States succeed in advancing its diplomatic priorities. Only by building a full-spectrum military force can America reassure its many friends and allies and count on their future support.

#### Even the THREAT of enforced restrictions make the President less likely to exert influence

Waxman 8/25 [Matthew Waxman 8/25/13, Professor of Law – Columbia and Adjunct Senior Fellow for Law and Foreign Policy – CFR, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN]

Even if Congress already wields informal political influence over threatened force, more potent and formal requirements of legislative force authorization or stricter enforcement of existing ones would still probably push U.S. policy a narrower set of commitments and more reserved use of threats – a more selective coercive and deterrent strategy – in several ways. For a President, knowing that he requires legally authorization from Congress to carry through on threats raises the expected political costs of making them (even very popular ones would require spending some political capital to obtain formal legislative backing). A more formal and substantial role for Congress in authorizing the carrying out of threats would also probably amplify some of the informational effects of executive-legislative dialogue and congressional debate described in the previous section: these processes – which could become more robust and attract greater attention – make it difficult to conceal or misrepresent preferences about war and peace, and therefore reduce opportunities for bluffing.

#### Congressional action hamstrings flexibility.

Grimmett 12 [Richard F. Grimmett Specialist in International Security September 24, 2012 The War Powers Resolution: After Thirty-Eight Years http://www.fas.org/sgp/crs/natsec/R42699.pdf]

A contrary view is that the War Powers Resolution is an inappropriate instrument that restricts the President’s effectiveness in foreign policy and should be repealed.89 Those with this perspective believe that the basic premise of the War Powers Resolution is wrong because in it, Congress attempts excessive control of the deployment of U.S. military forces, encroaching on the responsibility of the President.90 Supporters of repeal contend that the President needs more flexibility in the conduct of foreign policy and that the time limitation in the War Powers Resolution is unconstitutional and impractical. Some holding this view contend that Congress has always had the power, through appropriations and general lawmaking, to inquire into, support, limit, or prohibit specific uses of U.S. Armed Forces if there is majority support. The War Powers Resolution does not fundamentally change this equation, it is argued, but it **complicates action, misleads military opponents, and diverts attention** from key policy questions.

#### Congressional involvement creates murky lines of authority – undermines warfighting.

Wall 12 [Andru, senior official – Alston & Bird, Demystifying the Title 10-Title 50 Debate: Distinguishing Military Operations, Intelligence Activities & Covert Action, Harvard National Security Journal]

Congress’s failure to provide necessary interagency authorities and budget authorizations threatens our ability to prevent and wage warfare. Congress’s stubborn insistence that military and intelligence activities inhabit separate worlds casts a pall of illegitimacy over interagency support, as well as unconventional and cyber warfare. The U.S. military and intelligence agencies work together more closely than perhaps at any time in American history, yet Congressional oversight and statutory authorities sadly remain mired in an obsolete paradigm. After ten years of war, Congress still has not adopted critical recommendations made by the 9/11 Commission regarding congressional oversight of intelligence activities. Congress’s stovepiped oversight sows confusion over statutory authorities and causes Executive Branch attorneys to waste countless hours distinguishing distinct lines of authority and funding. Our military and intelligence operatives work tirelessly to coordinate, synchronize, and integrate their efforts; they deserve interagency authorities and Congressional oversight that encourages and supports such integration.

#### Plan allows Congress to vocally oppose crisis intervention – that destroys international perception of U.S. resolve.

Waxman 8/25 [Matthew Waxman, Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR, citing William Howell, Sydney Stein Professor in American Politics @ U-Chicago, and Jon Pevehouse, Professor of Political Science @ U-Wisconsin-Madison, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN]

When members of Congress vocally oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests.145

#### Obama only supports the plan on his own terms – he consistently opposes congressional intrusion. He’ll fight any attempts to control his foreign policy.

Kelley 12 [Christopher S. Kelley, Lecturer in the Department of Political Science at Miami University in Oxford, OH, Rhetoric and Reality? Unilateralism and the Obama Administration† 15 OCT 2012 Southwestern Social Science Association Issue Social Science Quarterly Social Science Quarterly Volume 93, Issue 5, pages 1146–1160, December 2012]

Obama has been fairly consistent in his use of the constitutional signing statement, employing it to **protect core presidential powers against congressional intrusion.** In particular, Obama has used the constitutional signing statement to protect his foreign policy/commander in chief powers, to protect separation of powers, in particular against the creation of executive agencies with legislative functions, or to protect his “Czars,” and he has used the constitutional signing statement to control inferior executive branch officers. To show that his actions are not out of the ordinary, Obama has also taken to invoking the names of previous presidents who have also made similar challenges in their signing statements. For instance, in challenging the creation of a “hybrid commission”—one that blends executive and legislative functions, Obama referred to a similar challenge made by President Reagan in 1982 (Obama, 2009c). Or, when signing an intelligence authorization bill in 2010, Obama based his challenge of a whistleblower provision on a similar challenge made by Bill Clinton in an intelligence authorization bill in 1998 (Obama, 2010).

#### Policymakers DO believe theories of credibility – will act accordingly

Fettweis 4 – Christopher Fettweis, Professor at the U.S. Army War College, December 2004, “Resolute Eagle or Paper Tiger? Credibility, Reputation and the War on Terror,” online: http://www.allacademic.com/meta/p67147\_index.html

In a very important sense, no state controls its reputation or its credibility, since these concepts exist in the minds of others. As will be discussed below, this observation has led Mercer and others to argue that states are therefore unjustified in their obsession with their credibility, since it is ultimately beyond their control. Although the logic behind this argument is quite compelling, its wisdom has not become apparent to policymakers, who persist in their obsession with the credibility of their nations, their parties, and themselves. Kissinger’s observation that “no serious policymaker could allow himself to succumb to the fashionable debunking of ‘prestige’ or ‘honor’ or ‘credibility’” seems to be just as true for the decision makers of today.14

#### Perceived ability to follow through matters comparatively more than bluffs or red lines – only Congressional restrictions affect this

McManus 9/11 [University of Wisconsin-Madison Ph.D candidate in political science Roseanne McManus. Threats and Credibility: How Obama’s Decision to Seek Congressional Authorization for Syria May Have Been a Game Changer, The Monkey Cage, http://themonkeycage.org/2013/09/11/threats-and-credibility-how-obamas-decision-to-seek-congressional-authorization-for-syria-may-have-been-a-game-changer/]

My research, available here, shows that factors related to the costs of backing down are rather poor predictors of whether statements of resolve will be effective at influencing the outcome of international disputes. Much better predictors are factors related to whether a leader has the observable ability to follow through on statements. While many theories tend to take a leader’s ability to follow through on statements for granted, I argue that there can be substantial risks and obstacles to following through, such as domestic actors who can block or forestall action (known in political science as veto players) or the danger of domestic backlash if a conflict goes poorly. Therefore, statements of resolve will only be effective if adversaries can observe that a leader has the ability to overcome these risks and obstacles. My statistical analysis shows that US presidential statements of resolve have a greater influence on dispute outcomes when the president has a greater ability to follow through on his statements due to a secure political position and/or hawkish domestic veto players.

#### Presidents say things all the time – what matters is ability to back it up

Balkin, 13 ( JACK M. BALKIN is Knight Professor of Constitutional Law and the First Amendment at Yale Law School, and the founder and director of Yale's Information Society Project, an interdisciplinary center that studies law and new information technologies. What Congressional Approval Won't Do: Trim Obama's Power or Make War Legal. http://www.theatlantic.com/politics/archive/2013/09/what-congressional-approval-wont-do-trim-obamas-power-or-make-war-legal/279298/)

Wouldn’t congressional refusal make the United States look weak, as critics including Senator John McCain warn loudly? Hardly. The next dictator who acts rashly will face a different situation and a different calculus. The UN Security Council or NATO may feel differently about the need to act. There may be a new threat to American interests that lets Obama or the next president offer a different justification for acting. It just won’t matter very much what Obama said about red lines in the past. World leaders say provocative things all the time and then ignore them. Their motto is: That was then, and this is now.

#### War powers strong now

Posner, 13 (Eric, professor at the University of Chicago Law School, Obama Is Only Making His War Powers Mightier. http://www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html)

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever.¶ It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”¶ Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.¶ The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.)¶ People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.¶ This approach also empowers the president relative to Congress by giving him the ability to embarrass members of Congress when he wants to. Just ask Hillary Clinton, whose vote in favor of the 2003 Iraq War damaged her chances against Barack Obama in 2008, and the Democratic senators who could not enter the 1992 campaign for the presidency because their votes against the 1991 Iraq War rendered them unelectable. The best thing for individual members of Congress is to be able to carp on the sidelines—to complain about not being consulted and to blame the president if the war goes badly. That is why David Axelrod said, “Congress is now the dog that caught the car.” This is hardball politics, not a rediscovery of legal values.¶ If Obama gains by spreading blame among Congress, why didn’t the president ask Congress for military authorization earlier, before he threatened Syria with a missile strike? The answer appears to be that the president expected international support for the invasion and believed that if other countries supported him, he would not need support in Congress. Only when the British poodle rediscovered its inner lion did he shift gears. Again, this has nothing to do with the law; it’s a matter of political prudence.

#### Obama’s been broadening war power authorities

New York Times 9/9

Charlie Savage, New York Times, 9/9/13, “In Syrian crisis, US President Barack Obama tests limits of power”, http://www.ndtv.com/article/world/in-syrian-crisis-us-president-barack-obama-tests-limits-of-power-416490 //jchen

But by the 2011 conflict in Libya he abandoned his campaign view of presidential war powers as too limited. While the NATO intervention was authorized for international law purposes by the Security Council, in domestic law Congress did not authorize Obama to participate. But Obama's Office of Legal Counsel argued that it was lawful for him to unilaterally order American forces to bomb Libya because of national interests in preserving regional stability and in supporting the "credibility and effectiveness" of the Security Council.

In recent weeks, administration lawyers decided that it was within Obama's constitutional authority to carry out a strike on Syria as well, even without permission from Congress or the Security Council, because of the "important national interests" of limiting regional instability and of enforcing the norm against using chemical weapons, Ruemmler said.

#### Shutdown doesn’t affect resolve

Drezner 10/3 [Daniel W. Drezner is professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University, Chuck Hagel and The Credibility Fairy, October 3, 2013 http://drezner.foreignpolicy.com/posts/2013/10/03/chuck\_hagel\_and\_the\_credibility\_fairy]

This is not the first time that Secretary of Defense Chuck Hagel has.... let's say exaggerated the impact of a policy decision on U.S. credibility abroad in recent weeks. (To be fair, if we were talking about the debt ceiling, then I'd agree with Hagel. But even a few weeks of government shutdown is unlikely to cause U.S. allies or adversaries to question U.S. resolve or commitments overseas.) Indeed, the government shutdown is less linked to overall foreign policy than, say, Syria -- and even there, the scope of the credibility issue seems remarkably constrained.

#### Empirically no impact.

Drezner 10/3 [Daniel W. Drezner is professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University, Chuck Hagel and The Credibility Fairy, October 3, 2013 http://drezner.foreignpolicy.com/posts/2013/10/03/chuck\_hagel\_and\_the\_credibility\_fairy]

The second issue is whether America's foreign policy credibility is really affected by a government shutdown. I think the answer here is **"no."** The last time the United States went through this kind of sustained deadlock was the 1995/1996 government shutdowns. As it turns out, this was right around the time that the United States also brokered the Dayton peace accords between the warring parties in Bosnia. There is no evidence that the former affected the latter -- I don't think Slobodan Milosevic's spine was stiffened because Newt Gingrich and Bill Clinton couldn't agree.

### A2 Syria Hurts Cred

#### Syria didn’t affect presidential powers – he asserted unilateral authority

Goldsmith 8/31 [Jack Goldsmith is the Henry L. Shattuck Professor at Harvard Law School, where he teaches and writes about national security law, presidential power, cybersecurity, international law, internet law, foreign relations law, and conflict of laws. Before coming to Harvard, Professor Goldsmith served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003. Professor Goldsmith is a member of the Hoover Institution Task Force on National Security and Law. Full bio » Obama’s Request to Congress Will Not Hamstring Future Presidents (Except for Some Humanitarian Interventions) By Jack Goldsmith Saturday, August 31, 2013 at 10:12 PM http://www.lawfareblog.com/2013/08/obamas-request-to-congress-will-not-hamstring-future-presidents-except-for-some-humanitarian-interventions/]

Peter Spiro at OJ, and David Rothkopf of FP whom he cites, both say that President Obama’s request for congressional authorization for Syria will allow Congress to hamstring future Presidents from using military force. Rothkopf exaggerates when he says that President Obama reversed “decades of precedent regarding the nature of presidential war powers” by going to Congress here, and Spiro exaggerates when he says that this is “a huge development with broad implications . . . for separation of powers.” What would have been unprecedented, and a huge development for separation of powers, is a unilateral strike in Syria. Seeking congressional authorization here in no way sets a precedent against President using force in national self-defense, or to protect U.S. persons or property, or even (as in Libya) to engage in humanitarian interventions (like Libya) with Security Council support. Moreover, the President and his subordinates have been implying for a while now that they will rely on Article II to use force without congressional authorization against extra-AUMF terrorist threats (and for all we know they already are). There is no reason to think that unilateral presidential military powers for national self-defense are in any way affected by the President’s decision today. That is as it should be.

#### Syria strengthened presidential war powers.

Balkin, 13 ( JACK M. BALKIN is Knight Professor of Constitutional Law and the First Amendment at Yale Law School, and the founder and director of Yale's Information Society Project, an interdisciplinary center that studies law and new information technologies. What Congressional Approval Won't Do: Trim Obama's Power or Make War Legal. http://www.theatlantic.com/politics/archive/2013/09/what-congressional-approval-wont-do-trim-obamas-power-or-make-war-legal/279298/)

One of the most misleading metaphors in the discussion of President Obama’s Syria policy is that the president has “boxed himself in” or has “painted himself into a corner.” These metaphors treat a president’s available actions as if they were physical spaces and limits on action as if they were physical walls. Such metaphors would make sense only if we also stipulated that Obama has the power to snap his fingers and create a door or window wherever he likes. The Syria crisis has not created a new precedent for limiting presidential power. To the contrary, it has offered multiple opportunities for increasing it.¶ If Congress says no to Obama, it will not significantly restrain future presidents from using military force. At best, it will preserve current understandings about presidential power. If Congress says yes, it may bestow significant new powers on future presidents -- and it will also commit the United States to violating international law. For Obama plans to violate the United Nations Charter, and he wants Congress to give him its blessing.¶ People who believe Obama has painted himself into a corner or boxed himself in might not remember that the president always has the option to ask Congress to authorize any military action he proposes, thus sharing the responsibility for decision if the enterprise goes sour. If Congress refuses, Obama can easily back away from any threats he has made against Syria, pointing to the fact that Congress would not go along. There is no corner. There is no box.

## Case

## PGS

### None now

#### DOD is just funding CPGS research now – no development or deployments.

Mazol 12 [James Mazol is a Ph.D. candidate at George Mason University. The views expressed in this paper are those of the author. the pivot and extended Deterrence: options to reassure south Korea Nuclear Scholars Initiative A Collection of Papers from the 2012 Nuclear Scholars Initiative http://csis.org/files/publication/121017\_Spies\_NuclearInitiative\_Web.pdf]

■ Cost: the united states could bolster its conventional offensive strategic forces in two ways: (1) modify existing assets for the extended conventional deterrence mission and/or (2) develop new CPGS capabilities. In 2006, Congress eliminated a DoD proposal to modify trident D-5 slBMs to carry conventional payloads. DOD requested about $500 million over five years to modify 24 D-5s and develop assigned conventional warheads.28 Despite the elimination of trident D-5 conversion, DOD continues to have a robust CPGS program. DOD’s fiscal year 2013 budget submission requests about $1.1 billion over five years for CPGS “design, development, and experimentation of boosters, payload, delivery, vehicles, non–nuclear warheads, guidance systems, and mission planning and enabling capabilities.”29

#### Seriously the Pentagon hasn’t decided mission roles – won’t be used against China, Iran, or North Korea.

Acton 10/3 [James M., Carnegie Endowment, Debating Conventional Prompt Global Strike http://carnegieendowment.org/2013/10/03/conventional-prompt-global-strike/gp0h]

For more than a decade, the U.S. Department of Defense has sought non-nuclear weapons that could hit distant targets “within minutes or hours.” Research and development efforts into this Conventional Prompt Global Strike (CPGS) technology are making progress, and the Pentagon is expected to make a decision about whether to acquire these weapons during President Barack Obama’s second term in office. The Obama administration has indicated that CPGS weapons might have a role to play in combatting some of the foremost security challenges facing the United States, including the proliferation of advanced defensive systems, antisatellite (ASAT) weapons, and nuclear weapons. However, the Pentagon has not actually made any decisions about the doctrine governing the possible use of CPGS. In fact, U.S. officials generally do not distinguish between potential missions, preferring instead to talk generally about the need to hold distant, time-critical, highly defended, fleeting targets at risk.

### Soft power

#### Obama won’t deploy soft power effectively

Ford 12

Christopher Ford, Senior Fellow at Hudson Institute in Washington, D.C. He previously served as U.S. Special Representative for Nuclear Nonproliferation, Principal Deputy Assistant Secretary of State, and General Counsel to the U.S. Senate Select Committee on Intelligence, SAIS Review Volume 32, Number 1, Winter-Spring 2012, “Soft on “Soft Power””, http://muse.jhu.edu/journals/sais\_review/v032/32.1.ford.html //jchen

Additionally, the “soft power-obsessed” Obama Administration has been remarkably reluctant to employ even limited values-promotion tools at its disposal. Though President Obama spoke favorably about democracy in his much-publicized June 2009 speech to a Muslim audience in Cairo, he defined democracy merely as having “governments that reflect the will of the people” and seemed curiously ambivalent about promoting more specifically American ideas like the right periodically to change their government through free and fair elections, and that no branch of government—nor indeed the government itself—should be permitted to accrue unchallengeable power.

In fact, Obama went out of his way to specify that “[each] nation gives life to this principle [of reflecting the will of the people] in its own way,” and pointedly excluded mention of voting or checks upon unbridled government power in his list of the things for which “all people yearn.” (The closest the president came to describing democratic political choice was to observe that governments “must maintain . . . power through consent, not coercion,” though this is a standard that could presumably be met, at least initially, by a popular despot or an authoritarian oligarchy which takes public opinion into account when making decrees.) This careful neglect of political rights was perhaps incongruous in a speech that began with a lament that “colonialism [had] denied rights and opportunities to many Muslims,”12 particularly for an administration so taken with the supposed virtues of “soft” power projection.

The Obama Administration then approached Iran’s “Green Revolution” with painful rhetorical reticence in 2009–2010, sacrificed candor about Russia’s retreat into autocracy on the altar of an expedient nuclear disarmament-focused “reset” of relations with Moscow, and explicitly promised not to let human rights concerns “interfere” with America’s economic relationship with Beijing.13 The American role in promoting democracy in Egypt in 2011 was also for a time decidedly ambivalent, with U.S. officials still calling for President Hosni Mubarak to stay in office until just before his resignation.14 After a long period of embarrassing silence in which U.S. officials bizarrely quoted assessments describing Syrian dictator Bashar al-Asad as a “reformer,”15 the Obama Administration finally spoke out against his bloody efforts to repress Syria’s pro-democracy movement, ultimately calling on Assad to step down.16 But the contribution of U.S. pronouncements to effecting change in Syria is, at the time of writing, unclear at best. So far, the Obama Administration’s most conspicuous democracy-promotion [End Page 95] effort was a very “hard power” affair: the war that led to the overthrow and execution of Libyan dictator Muammar Qaddafi.

The Obama Administration sought credit as a promoter of democratic values in mid-2011, as leaked stories appeared about State Department-funded efforts to outfit pro-democracy activists in various countries with portable internet and cell phone equipment capable of circumventing government censorship.17 While such efforts seemed to have real potential, a cyber security expert of my acquaintance describes this program as still being depressingly amateurish from a technical perspective. (A colleague of mine at Hudson Institute, Michael Horowitz, also points out that existing web-censorship circumvention services promoted by the U.S. tend to lack the surge capacity needed to deal with user demand during political crises, when access to such capabilities is likely to be most important.18 )

Meanwhile, even as the authorities in Beijing cracked down hard to preclude any possibility of a Chinese “Oolong Revolution” to parallel the “Jasmine Revolution” of democratization in the Arab world,19 the Obama Administration announced plans to terminate the Voice of America’s Mandarin-language radio and television service in China.20 Given the evident terror of China’s Communist leadership at the idea of its citizens becoming enamored with multiparty democracy and political freedom—a fear evident, for instance, in PRC Politburo members’ warnings that “[enemy] forces” are always trying to “undermine and divide China,” and that the Chinese Communist Party (CCP) needs a “line of defense to resist Western two-party and multi-party systems, a bi-cameral legislature, the separation of power and other kinds of erroneous ideological interferences”21 —this seems to be quite a remarkable recusal from the field of “soft power” competition.

Despite the rhetoric about “navigating by our values,” therefore, the Obama Administration has been notably ambivalent about actually promoting them—with President Obama himself apparently seeing nothing exceptional about the American system’s embodiment of the very “values” by which we are expected to “navigate.” On one level, this is not surprising, for the president has said that he believes in American exceptionalism only in the sense that people from any country might believe in the special character of their own country.22 Still, such politically-correct relativism is a strange refuge for someone supposedly committed to making “our values” a key component of the “soft power” with which he was supposed to revolutionize U.S. foreign policy.

In terms of potential economic “soft power,” our free market economy obviously imposes significant constraints upon the degree to which the still-vibrant U.S. business and financial sectors can be used in support of broader national objectives. Nevertheless, the use of economic and financial sanctions has long been an aspect of “soft power” projection available to U.S. officials. (Indeed, as I have noted elsewhere, U.S. leaders seem always to have had great faith in their ability to use trade and other economic incentives to accomplish foreign policy goals.23 ) In the 1990s, the U.S. Congress passed a number of laws requiring the imposition of sanctions on foreign entities involved in the proliferation of ballistic missile or weapons of mass [End Page 96] destruction (WMD). The late Senator Jesse Helms, author of much of this legislation, is not usually regarded as a hero by the proponents of “soft power,” but perhaps a re-think is in order.

The Clinton Administration generally opposed the use of “soft power” in the form of nonproliferation sanctions. In the first administration of George W. Bush, however, when such approaches were championed by then-Under Secretary of State for Arms Control and International Security John Bolton as an “essential tool,”24 American authorities showed considerable enthusiasm for using sanctions to force foreign companies to make a choice between facilitating proliferation and trading with the world’s largest economy. In the most dramatic example of such sanctions, the Bush Administration sanctioned the Chinese company NORINCO in early 2003 for assisting Iran’s ballistic missile program; this move was said to have cost NORINCO something on the order of $100 million in sales in the United States.25

The Bush Administration also used the prospect of relaxing sanctions, albeit combined with the conspicuously “hard power” anti-WMD message sent by the invasion of Iraq, to draw Libya’s Muammar Qaddafi into the internationally-supervised elimination of his WMD programs in 2003–2004. Except for imposing further sanctions against Iran over its nuclear program, (an arena in which some progress has been made, though more as a result of the outrageousness of Iran’s continuing provocations than anything Washington has actually managed to do),26 the Obama Administration has been remarkably uninterested in nonproliferation sanctions.

On the whole, it is certainly true that precisely because we are a free and democratic society, there are sharp limits upon what a president can do to leverage America’s “soft power.” Nevertheless, today’s White House has been curiously diffident about even trying to use the tools it has. It seems to prefer passive approaches even to the “soft power” it has itself rhetorically championed, and is, to all appearances, simply embarrassed about anything that smacks of affirmative global leadership, preferring to “lead from behind”27 in ways that avoid seeming too pushy or “Bush-like” for contemporary sensibilities.

As suggested above, however, taking a passive approach to “soft power” isn’t really exerting power at all: it is just sitting back and hoping for the best. Such an approach may sometimes work, but it does not deserve much credit as a national strategy, and it is not clear what precisely is so “smart” about the use of “soft power.”

#### Achieving consensus takes too long

Fisher, 13 (Max Fisher is the Post's foreign affairs blogger. He has a master's degree in security studies from Johns Hopkins University. Obama’s Syria choice: Good for politics, good for the constitution, bad for Syria. http://www.washingtonpost.com/blogs/worldviews/wp/2013/08/31/obamas-syria-choice-good-for-politics-good-for-the-constitution-bad-for-syria/)

This detail is telling: According to the Associated Press, Obama had decided to launch strikes without congressional approval. But he changed his mind at the last moment and said he wanted to get Congress’ support – overruling every single one of his top national security advisors, who apparently counseled against it.

The U.S. Congress is not known for its speed with urgent issues – particularly ones that come during their vacation. It is also not an institution known for compromise or cooperation on issues that are, like this one, daunting, difficult and that have few political upsides. Whether or not you think that off-shore strikes are a good idea, this adds more delays and uncertainty after a week of both. It increases the likelihood, probably already significant, that the Assad regime will see the international community as unable or unwilling to hold him accountable. If strikes are likely to happen anyway, the uncertainty is not good for Syria. And if they don’t happen, Syria would have likely been better off if the U.S. had never signaled otherwise in the first place.

Colleagues Liz Sly and Ahmed Ramadan report from Beirut that many Syrians who oppose Assad worry that the combination of telegraphing strikes but then backing off will send Assad the message that he can use chemical weapons with far less fear of reprisal than he may have previously felt. It also risks sending the message that Assad will have plenty of warning before any strikes, for example to relocate valuable military equipment such as scud missiles or to prepare to absorb the blow.

#### Congress is too poorly informed and divisive to aid in decisionmaking.

Hamilton, 99 (The Hon. Lee H. Hamilton¶ Elliott School Lecture¶ George Washington University. Foreign Policy Consultation between the President and Congress. http://www.centeroncongress.org/foreign-policy-consultation-between-president-and-congress)

Congress also has several shortcomings when it comes to consultation.¶ Consultation with Congress is difficult because power in Congress is so diffuse, and shifts with each issue. In the old days, the President could consult with Congress effectively simply by talking to a few important congressional leaders and committee chairmen -- Speaker of the House Sam Rayburn, Senate Majority Leader Lyndon Johnson, Chairman of the Senate Foreign Relations Committee Arthur Vandenberg. Today, dozens of Members of Congress and many congressional committees play important roles in foreign policy. Members are younger, more sophisticated, more active, more diverse, more independent and less respectful of traditional patterns of authority. There is no single person -- or group of people -- that the executive branch can consult with and conclude that it has gained congressional support.¶ Congress is often not receptive to consultation. There is a tendency in the Congress to want to be briefed by the President, the Secretary of Defense, or the Secretary of State, and an unwillingness to hear from lower-ranking officials. After the 1994 so-called Agreed Framework with North Korea was negotiated, I thought it would be useful for Congress to be briefed on the agreement since it was of major importance to our security interests in Asia. I helped organize two briefings for Members on Capitol Hill with the State Department official who negotiated the agreement, and a total of one Member showed up.¶ Congress is often poorly informed about foreign policy. Most Members focus mainly on domestic issues, and many of them give little thought to foreign affairs except when a vote is pending or a crisis breaks. This lack of sustained interest in foreign policy makes it more difficult for an administration to consult.¶ Congress tends to be heavily influenced by special interests, prominent ethnic groups in their districts, and short-term objectives. This narrow perspective can complicate an administration's efforts to develop long-term policies that offer no immediate political benefit to Members.¶ Congress is often unwilling to accept responsibility for formulating our foreign policy. Members criticize the President's policy without offering any constructive alternatives. Then Members sit back and let the President take the heat if our policy fails. For too many Members, foreign policy is just another battleground for seeking political advantage over the President.¶ Partisanship in Congress can weaken consultation. Early in the Clinton presidency, House Speaker Newt Gingrich refused to be consulted by the administration while Democrats were present. This kind of attitude makes it harder to develop bipartisan consensus.¶ Congress can leak sensitive information. Executive branch fear of leaks can discourage officials from sharing information with Congress. But it should also be said that leaks come from the executive branch as well. Many administration officials are skillful at leaking information to Congress and the public to advance their own agendas.

### 2nc – voice

#### Congress can’t speak with one voice on foreign policy.

Hamilton 01 (Lee, director of the Woodrow Wilson International Center for Scholars. He is a former congressman from the state of Indiana. How to Forge Ahead. The Washington Quarterly 24.2 (2001) 123-130)

Changes in the Congress have further complicated the task of developing a bipartisan foreign policy. Many members of Congress now view foreign policy as nothing more than an extension of U.S. domestic politics. They use foreign policy to curry favor with supporters or constituents or to score points by attacking the president. Power in Congress on foreign policy has become more diffuse in recent decades, as the main foreign policy committees have lost influence to a variety of other committees and to individual members advancing specific causes. It may be misguided nostalgia to think that Congress ever spoke with one voice in foreign policy, but now Congress seems often to speak with 535.¶ Additionally, foreign policy partisanship is exacerbated by the media. The media encourage policymakers to take controversial stances by focusing on political conflict more than foreign policy analysis. A member of Congress does not get onto television by agreeing with, or explaining, the administration's foreign policy. He or she gets attention by accusing the administration of failure or inadequacy.

#### The president alone presents a unified voice of foreign policy.

Knott, 13 (Stephen F. Knott is professor of National Security Affairs at the United States Naval War College and author of Alexander Hamilton and the Persistence of Myth. War by Lawyer. http://www.libertylawsite.org/2013/08/22/war-by-lawyer/)

Terrorist attacks directed from abroad are acts of war against the United States, requiring a response by the nation’s armed forces under the direction of the commander-in-chief. Unity in the executive is critical to the conduct of war, as Alexander Hamilton noted in The Federalist, and war by committee, especially a committee of lawyers, brings to armed conflict the very qualities that are the antithesis of Publius’s “decision, activity, secrecy, and dispatch.” The American military, with the assistance of the American intelligence community, fulfill the constitutional mandate to provide for the common defense. The nation’s defense establishment is not the Internal Revenue Service or the Department of Health and Human Services; if one dislikes the social welfare policies of the Obama administration or disagrees with President Obama for whatever reason, that is all well and good, but true conservatives should reject the principle that judicial review is applicable to the conduct of national defense. The founders understood that the decision to use force, the most important decision any government can make, were non-judicial in nature and were to be made by the elected representatives of the people.