## 1NC

### 1

The affirmative re-inscribes the primacy of liberal legalism as a method of restraint—that paradoxically collapses resistance to Executive excesses.

**Margulies ‘11**

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In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

Legalism underpins the violence of empire and creates the conditions of possibility for liberal violence.

Dossa ‘99

Shiraz, Department of Political Science, St. Francis Xavier University, Antigonish, Nova Scotia, “Liberal Legalism: Law, Culture and Identity,” The European Legacy, Vol. 4, No. 3, pp. 73-87,1

No discipline in the rationalized arsenal of modernity is as rational, impartial, objective as the province of law and jurisprudence, in the eyes of its liberal enthusiasts. Law is the exemplary countenance of the conscious and calculated rationality of modern life, **it is the** emblematic face of liberal civilization. Law and legal rules symbolize the spirit of science, the march of human progress. As Max Weber, the reluctant liberal theorist of the ethic of rationalization, asserted: judicial formalism enables the legal system to operate like a technically **rational machine**. Thus it guarantees to individuals and groups within the system a relative of maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their action. In this reading, law encapsulates the western capacity to bring order to nature and human beings, to turn the ebb and flow of life into a "rational machine" under the tutelage of "judicial formalism".19 Subjugation of the Other races in the colonial empires was motivated by power and rapacity, but it was justified and indeed rationalized, by an appeal to the civilizing influence of religion and law: western Christianity and liberal law. To the imperialist mind, "the civilizing mission of law" was fundamental, though Christianity had a part to play in this program.20 Liberal colonialists visualized law, civilization and progress as deeply connected and basic, they saw western law as neutral, universally relevant and desirable. The first claim was right in the liberal context, the second thoroughly false. In the liberal version, the mythic and irrational, emblems of thoughtlessness and fear, had ruled all life-forms in the past and still ruled the lives of the vast majority of humanity in the third world; in thrall to the majesty of the natural and the transcendent, primitive life flourished in the environment of traditionalism and lawlessness, hallmarks of the epoch of ignorance. By contrast, liberal ideology and modernity were abrasively unmythic, rational and controlled. Liberal order was informed by knowledge, science, a sense of historical progress, a continuously improving future. But this canonical, secular, bracing self-image, is tendentious and substantively illusory: it blithely scants the bloody genealogy and the extant historical record of liberal modernity, liberal politics, and particularly liberal law and its impact on the "lower races" (Hobson). In his Mythology of Modern Law, Fitzpatrick has shown that the enabling claims of liberalism, specifically of liberal law, are not only untenable but implicated in canvassing a racist justification of its colonial past and in eliding the racist basis of the structure of liberal jurisprudence.21 Liberal law is mythic in its presumption of its neutral, objective status. Specifically, the liberal legal story of its immaculate, analytically pure origin obscures and veils not just law's own ruthless, violent, even savage and disorderly trajectory, but also its constitutive association with imperialism and racism.22 In lieu of the transcendent, divine God of the "lower races", modern secular law postulated the gods of History, Science, Freedom. Liberal law was to be the instrument for realizing the promise of progress that the profane gods had decreed. Fitzpatrick's invasive surgical analysis lays bare the underlying logic of law's self-articulation in opposition to the values of cultural-racial Others, and its strategic, continuous reassertion of liberalism's superiority and the civilizational indispensability of liberal legalism. Liberal law's self-presentation presupposes a corrosive, debilitating, anarchic state of nature inhabited by the racial Others and lying in wait at the borders of the enlightened modern West. This mythological, savage Other, creature of raw, natural, unregulated fecundity and sexuality, justified the liberal conquest and control of the racially Other regions.23 Law's violence and resonant savagery on behalf of the West in its imperial razing of cultures and lands of the others, has been and still is, justified in terms of the necessary, beneficial spread of liberal civilization. Fitzpatrick's analysis parallels the impassioned deconstruction of this discourse of domination initiated by Edward Said's Orientalism, itself made possible by the pioneering analyses of writers like Aime Cesaire and Frantz Fanon. Fitzpatrick's argument is nevertheless instructive: his focus on law and its machinations unravels the one concrete province of imperial ideology that is centrally modern and critical in literally transforming and refashioning the human nature of racial Others. For liberal law carries on its back the payload of "progressive", pragmatic, **instrumental modernity**, its ideals of order and rule of law, its articulation of human rights and freedom, its ethic of procedural justice, its hostility to the sacred, to transcendence or spiritual complexity, its recasting of politics as the handmaiden of the nomos, its valorization of scientism and rationalization in all spheres of modern life. Liberal law is not synonymous with modernity tout court, but it is the exemplary voice of its rational spirit, **the custodian of its civilizational ambitions.** For the colonized Others, no non-liberal alternative is available: a non-western route to economic progress is inconceivable in liberal-legal discourse. For even the truly tenacious in the third world will never cease to be, in one sense or another, the outriders of modernity: their human condition condemns them to **playing perpetual catch-up**, eternally subservient to Western economic and technological superiority in a epoch of self-surpassing modernity.24 If the racially Other nations suffer exclusion globally, the racially other minorities inside the liberal loop enjoy the ambiguous benefits of inclusion. As legal immigrants or refugees, they are entitled to the full array of rights and privileges, as citizens (in Canada, France, U.K., U.S—Germany is the exception) they acquire civic and political rights as a matter of law. Formally, they are equal and equally deserving. In theory liberal law is inclusive, but concretely it is routinely **partial and invidious**. Inclusion is conditional: it depends on how robustly the new citizens wear and deploy their cultural difference. Two historical facts account for this phenomenon: liberal law's role in western imperialism and the Western claim of civilizational superiority that pervades the culture that sustains liberal legalism. Liberal law, as the other of the racially Other within its legal jurisdiction, differentiates and locates this other in the enemy camp of the culturally raw, irreducibly foreign, making him an unreliable ally or citizen. Law's suspicion of the others socialized in "lawless" cultures is instinctive and undeniable. Liberal law's constitutive bias is in a sense incidental: the real problem is racism or the racist basis of liberal ideology and culture.25 The internal racial other is not the juridical equal in the mind of liberal law but the juridically and humanly inferior Other, the perpetual foreigner.

The alternative is to vote negative to endorse political, rather than legal restrictions on Presidential war powers authority.

**Goldsmith ‘12**

Jack, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March 2012, Power and Constraint, p. 205-209

DAVID BRIN is a science-fiction writer who in 1998 turned his imagination to a nonfiction book about privacy called The Transparent Society. Brin argued that individual privacy was on a path to extinction because government surveillance tools—tinier and tinier cameras and recorders, more robust electronic snooping, and bigger and bigger databases—were growing irreversibly more powerful. His solution to this attack on personal space was not to erect privacy walls, which he thought were futile, but rather to induce responsible government action by turning the surveillance devices on the government itself. A government that citizens can watch, Brin argued, is one subject to criticism and reprisals for its errors and abuses, and one that is more careful and responsible in the first place for fear of this backlash. A transparent government, in short, is an accountable one. "If neo-western civilization has one great trick in its repertoire, a technique more responsible than any other for its success, that trick is accountability," Brin argues, "[e]specially the knack—which no other culture ever mastered—of making accountability apply to the mighty."' Brin's notion of reciprocal transparency is in some ways the inverse of the penological design known as a "panopticon," made famous by the eighteenth-century English utilitarian philosopher Jeremy Bentham. Bentham's brother Samuel had designed a prison in Paris that allowed an "inspector" to monitor all of the inmates from a central location without the prisoners knowing whether or when they were being watched (and thus when they might be sanctioned for bad behavior). Bentham described the panopticon prison as a "new mode of obtaining power of mind over mind" because it allowed a single guard to control many prisoners merely by conveying that he might be watching.' The idea that a "watcher" could gain enormous social control over the "watched" through constant surveillance backed with threats of punishment has proved influential. Michel Foucault invoked Bentham's panopticon as a model for how modern societies and governments watch people in order to control them.' George Orwell invoked a similar idea three decades earlier with the panoptical telescreen in his novel 1984. More recently, Yale Law School professor Jack Balkin used the panopticon as a metaphor for what he calls the "National Surveillance State," in which governments "use surveillance, data collection, and data mining technologies not only to keep Americans safe from terrorist attacks but also to prevent ordinary crime and deliver social services." **The direction of the panopticon can be reversed, however, creating a "synopticon" in which many can watch one, including the government**.' The television is a synopticon that enables millions to watch the same governmental speech or hearing, though it is not a terribly robust one because the government can control the broadcast. Digital technology and the Internet combine to make a more powerful synopticon that allows many individuals to record and watch an official event or document in sometimes surprising ways. Video recorders placed in police stations and police cars, cell-phone video cameras, and similar tools increase citizens' ability to watch and record government activity. This new media content can be broadcast on the Internet and through other channels to give citizens synoptical power over the government—a power that some describe as "sousveillance" (watching from below)! These and related forms of watching can have a disciplining effect on government akin to Brin's reciprocal transparency. The various forms of watching and checking the presidency described in this book constitute a vibrant presidential synopticon. Empowered by legal reform and technological change, the "many"—in the form of courts, members of Congress and their staff, human rights activists, journalists and their collaborators, and lawyers and watchdogs inside and outside the executive branch—constantly gaze on the "one," the presidency. Acting alone and in mutually reinforcing networks that crossed organizational boundaries, these institutions extracted and revealed information about the executive branch's conduct in war—sometimes to adversarial actors inside the government, and sometimes to the public. The revelations, in turn, forced the executive branch to account for its actions and enabled many institutions to influence its operations. **The presidential synopticon** also **promoted responsible executive action merely through its broadening gaze.** One consequence of a panopticon, in Foucault's words, is "to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power."' The same thing has happened in reverse but to similar effect within the executive branch, where officials are much more careful merely by virtue of being watched. The presidential synopticon is in some respects not new. Victor Davis Hanson has argued that "war amid audit, scrutiny, and self-critique" has been a defining feature of the Western tradition for 2,500 years.' From the founding of the nation, American war presidents have been subject to intense scrutiny and criticism in the unusually open society that has characterized the United States. And many of the accountability mechanisms described in this book have been growing since the 1970s in step with the modern presidency. What is new, however, is the scope and depth of these modern mechanisms, their intense legalization, and their robust operation during wartime. In previous major wars the President determined when, how, and where to surveil, target, detain, transfer, and interrogate enemy soldiers, often without public knowledge, and almost entirely without unwanted legal interference from within the executive branch itself or from the other branches of government.' Today these **decisions are known inside and outside the government to an unprecedented degree** and are heavily regulated by laws and judicial decisions that are enforced daily by lawyers and critics inside and outside the presidency. Never before have Congress, the courts, and lawyers had such a say in day-to-day military activities; never before has the Commander in Chief been so influenced, and constrained, by law. This regime has many historical antecedents, but it came together and hit the Commander in Chief hard for the first time in the last decade. It did so because of extensive concerns about excessive presidential power in an indefinite and unusually secretive war fought among civilians, not just abroad but at home as well. These concerns were exacerbated and given credibility by the rhetoric and reality of the Bush administration's executive unilateralism—a strategy that was designed to free it from the web of military and intelligence laws but that instead galvanized forces of reaction to presidential power and deepened the laws' impact. Added to this mix were enormous changes in communication and collaboration technologies that grew to maturity in the decade after 9/11. These changes helped render executive branch secrets harder to keep, and had a flattening effect on the executive branch just as it had on other hierarchical institutions, making connections between (and thus accountability to) actors inside and outside the presidency **much more extensive**.

### 2

Obama’s political capital is sufficient to get a resolution to the fiscal crisis but it’s close.

Jonathan Allen, Politico, 9/19/13, GOP battles boost President Obama, dyn.politico.com/printstory.cfm?uuid=17961849-5BE5-43CA-B1BC-ED8A12A534EB

There’s a simple reason President Barack Obama is using his bully pulpit to focus the nation’s attention on the battle over the budget: In this fight, he’s watching Republicans take swings at each other. And that GOP fight is a **lifeline** for an administration that had been scrambling to gain control its message after battling congressional Democrats on the potential use of military force in Syria and the possible nomination of Larry Summers to run the Federal Reserve. If House Republicans and Obama can’t cut even a short-term deal for a continuing resolution, the government’s authority to spend money will run out on Oct. 1. Within weeks, the nation will default on its debt if an agreement isn’t reached to raise the federal debt limit. For some Republicans, those deadlines represent a leverage point that can be used to force Obama to slash his health care law. For others, they’re a zero hour at which the party will implode if it doesn’t cut a deal. **Meanwhile, “on the looming fiscal issues, Democrats** — both **liberal** and **conservative**, executive and congressional — **are virtually 100 percent united**,” said Sen. Charles Schumer (D-N.Y.). Just a few days ago, all that Obama and his aides could talk about were Syria and Summers. Now, they’re bringing their party together and shining a white hot light on Republican disunity over whether to shut down the government and plunge the nation into default in a vain effort to stop Obamacare from going into effect. The squabbling among Republicans has gotten so vicious that a Twitter hashtag — #GOPvsGOPugliness — has become a thick virtual data file for tracking the intraparty insults. Moderates, and even some conservatives, are slamming Texas Sen. Ted Cruz, a tea party favorite, for ramping up grassroots expectations that the GOP will shut down the government if it can’t win concessions from the president to “defund” his signature health care law. “I didn’t go to Harvard or Princeton, but I can count,” Sen. Bob Corker (R-Tenn.) tweeted, subtly mocking Cruz’s Ivy League education. “The defunding box canyon is a tactic that will fail and weaken our position.” While it is well-timed for the White House to interrupt a bad slide, Obama’s singular focus on the budget battle is hardly a last-minute shift. Instead, it is a return to the narrative arc that the White House was working to build before the Syria crisis intervened. And it’s so important to the president’s strategy that White House officials didn’t consider postponing Monday’s rollout of the most partisan and high-stakes phase even when a shooter murdered a dozen people at Washington’s Navy Yard that morning. The basic storyline, well under way over the summer, was to have the president point to parts of his agenda, including reducing the costs of college and housing, designed to strengthen the middle class; use them to make the case that he not only saved the country from economic disaster but is fighting to bolster the nation’s finances on both the macro and household level; and then argue that Republicans’ desire to lock in the sequester and leverage a debt-ceiling increase for Obamacare cuts would reverse progress made. The president is on firm ground, White House officials say, because he stands with the public in believing that the government shouldn’t shut down and that the country should pay its bills.

**The plan causes an inter-branch fight that derails Obama’s agenda**

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

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

That spills-over to government shutdown and US default—that kills the economy and US credibility

Norm Ornstein, resident scholar at the American Enterprise Institute, 9/1/13, Showdowns and Shutdowns, www.foreignpolicy.com/articles/2013/09/01/showdowns\_and\_shutdowns\_syria\_congress\_obama

Then there is the overload of business on the congressional agenda when the two houses return on Sept. 9 -with only nine legislative days scheduled for action in the month. We have serious confrontations ahead on spending bills and the debt limit, as the new fiscal year begins on Oct. 1 and the debt ceiling approaches just a week or two thereafter. Before the news that we would drop everything for an intense debate on whether to strike militarily in Syria, Congress-watchers were wondering how we could possibly deal with the intense bargaining required to avoid one or more government shutdowns and/or a real breach of the debt ceiling, **with** devastating consequences for American credibility **and the** international economy. Beyond the deep policy and political divisions, Republican congressional leaders will likely use both a shutdown and the debt ceiling as hostages to force the president to cave on their demands for deeper spending cuts. **Avoiding this end-game bargaining will require** the unwavering attention of the same top leaders in the executive and legislative branches who will be deeply enmeshed in the Syria debate. The possibility -even probability -of disruptions caused by partial shutdowns could complicate any military actions. The possibility is also great that the rancor that will accompany the showdowns over fiscal policy will bleed over into the debate about America and Syria.

Extinction

Kemp 10

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

### 3

Iran is looking to compromise on its nuclear program – Obama’s perceived flexibility is key

Benen, writer for MSNBC and producer of the Rachel Maddow show, 9/20/2013

(Steve, “When crises become opportunities,” http://maddowblog.msnbc.com/\_news/2013/09/20/20599445-when-crises-become-opportunities?lite)

When it comes to the Middle East, progress has never moved in a straight line. There are fits and starts, ebbs and flows. There are heartening breakthroughs and crushing disappointments, occasionally at the same time.

That said, while the domestic political establishment's attention seems focused elsewhere, there's reason to believe new opportunities are materializing in the region in ways that were hard to even imagine up until very recently.

This morning, for example, the Organization for the Prohibition of Chemical Weapons (OPCW) announced that Syria has taken its first steps towards detailing its stockpiles. Michael Luhan, a spokesperson for the Hague-based chemical weapons regulator, said in a statement, "The OPCW has received an initial disclosure from the Syrian Government of its chemical weapons programme, which is now being examined by the Technical Secretariat of the Organisation."

Meanwhile, Iranian President Hasan Rouhani has a new op-ed in the Washington Post arguing that the United States and the rest of the world "must work together to end the unhealthy rivalries and interferences that fuel violence and drive us apart" through a policy of "constructive engagement."

The New York Times added that Iranian leaders, "seizing on perceived flexibility in a private letter from President Obama, have decided to gamble on forging a swift agreement over their nuclear program with the goal of ending crippling sanctions."

David Sanger summarized the bigger picture nicely.

Only two weeks after Washington and the nation were debating a unilateral military strike on Syria that was also intended as a forceful warning to Iran about its nuclear program, President Obama finds himself at the opening stages of two unexpected diplomatic initiatives with America's biggest adversaries in the Middle East, each fraught with opportunity and danger.

Without much warning, diplomacy is suddenly alive again after a decade of debilitating war in the region. After years of increasing tension with Iran, there is talk of finding a way for it to maintain a face-saving capacity to produce a very limited amount of nuclear fuel while allaying fears in the United States and Israel that it could race for a bomb.

The surprising progress has come so suddenly that a senior American diplomat described this week's developments as "head spinning."

So what happens next?

The consensus among many foreign policy observers is that developments in Syria and Iran are linked in ways that may or may not be helpful to the United States. Max Fisher explained well yesterday that President Obama's pragmatism "has sent exactly the right signals to Iran, particularly at this very sensitive moment."

Obama has been consistently clear, even if some members of his administration were not, that his big overriding goal is for Syrian leader Bashar al-Assad to stop using chemical weapons. First he was going to do that with strikes, meant to coerce Assad. Then, in response to the Russian proposal, Obama signaled he would back off the strikes if Assad gave up his chemical weapons, which is exactly what Obama has always said he wants. He's been consistent as well as flexible, which gave Assad big incentives to cooperate when he might have otherwise dug in his heels.

There are some awfully significant -- and promising -- parallels here with the U.S. standoff with Iran. Obama has been clear that he wants Iran to give up its rogue uranium-enrichment program and submit to the kind of rigorous inspections that would guarantee that its nuclear program is peaceful. He's also been clear that the United States is using severe economic sanctions to coerce Tehran to cooperate and that it would use military force if necessary. The implicit (and sometimes explicit) message to Iran has been: If you abandon your enrichment program, we'll make it worth your while by easing off.

Here's where the parallel with Syria is really important: Iranian leaders distrust the United States deeply and fear that Obama would betray them by not holding up his end of the bargain. That's been a major hurdle to any U.S.-Iran nuclear deal. But seeing Assad's deal with Obama work out (so far) sends the message to Iran that it can trust the United States. It also sends the message that making concessions to the United States can pay off. Iran's supreme leader has been talking a lot lately about flexibility and diplomacy toward the West. So it's an ideal moment for Obama to be demonstrating flexibility and diplomacy toward the Middle East.

The plan undermines Obama’s war power credibility—that kills negotiations

Matthew Waxman, professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State, 1/28/13, Executive-Congressional Relations and National Security, www.advancingafreesociety.org/the-briefing/executive-congressional-relations-and-national-security/

The last four years should have been a good period for executive-congressional relations in the areas of national security and foreign affairs. The president, vice president, and secretary of state were former Senators. They all viewed President George W. Bush as too inclined to bypass or ignore Congress and they promised to do better. And the Obama administration started with Democratic majorities in the House and Senate.

It is thus surprising that the past four years have been notable for inter-branch clashes and paralysis on some major national security agenda items, with the administration failing to engage Congress or operating in a slowly reactive mode, while many congressional Republicans remain in an obstructionist mode. In the second term, the Obama administration will need to pick its legislative priorities more deliberately, engage with allies and opponents in Congress more actively, and be willing to negotiate compromises or wage aggressive campaigns on key issues.

Congress has repeatedly stifled the president’s signature counterterrorism promise to close the Guantanamo Bay detention facility. Congress’s opposition has been more than political. Beginning with legislation in 2010 when Democrats controlled both houses of Congress, Congress has consistently placed legal barriers on the president’s ability to transfer Guantanamo detainees or to try them in civilian courts in the United States. After hinting in his speech at the National Archives in 2009 that he would work with Congress on these issues, Obama has put forward no proposal of his own, nor has his administration been willing to explore possible compromises on long-term Guantanamo policies, instead playing defense against moves by congressional blocs with their own Guantanamo agendas. That defensive strategy has included a series of veto threats, which were always abandoned in the end and now carry little credibility.

With regard to war powers, the administration barely escaped a significant congressional rebuke after it failed to obtain congressional authorization for the operations in Libya in 2011 or at least to advance a convincing account for why such authorization was not needed. The administration conducted international diplomacy effectively, and obtained UN Security Council and Arab League endorsement of military operations to protect Libyan civilians from slaughter. However, on the domestic front it alienated even congressional supporters of its policy with poor early consultation on the Hill. In the end, Senate Majority Leader Harry Reid prevented the Senate from taking up a resolution passed by the Foreign Relations Committee that would have authorized the operation but rejected the administration’s strained interpretation of the War Powers Resolution. Throughout the Libya crisis, the administration’s approach toward Congress was passive and tentative. It was fortunate for the administration that Congress was splintered and few members were willing to defend its institutional prerogatives, at least within the limited timeframe of the intervention. But Obama might not be so lucky the next time.

As to treaties, the administration garnered super-majority Senate advice and consent on a record-low number of agreements in its first term. Despite a strong effort by Secretary of State Hillary Clinton and the Navy leadership, the administration failed to get the UN Convention on the Law of the Sea out of the Senate Foreign Relations Committee. Once again, part of the explanation for failure was the administration’s poorly timed and coordinated engagement of the Senate on the issue. In the face of Senate Republican portrayals of other global treaties as threats to US sovereignty, the White House failed to throw its full weight behind its valid arguments that the Law of the Sea Convention would strengthen the US position with respect, for example, to crisis hotspots in Asia and in commercial spheres.

To be clear, the Obama administration has scored successes, too. For example, putting aside the policy merits, it worked reasonably well with Congress on the completed wind-down of the Iraq war. It will need to do the same with respect to the planned wind-down of the Afghanistan war and in developing a long-term strategy for Afghanistan and Pakistan. Much of the blame for policy incoherence on many national security issues such as cybersecurity lies with Congress, which is infected by political polarization and dysfunction as much in international affairs as it is in domestic affairs.

Going forward, the Obama administration will need to bring the same kind of sustained attention and hard-nosed strategic thinking to its legislative agenda on national security issues as it has on some major domestic policy issues. First, it will need to be selective in its legislative agenda and then wage aggressive campaigns on matters it labels national security priorities. It did so early in the first term with respect to the New START Treaty, which was in danger of collapse until the administration went all out for it. Obama’s team enlisted influential allies from previous Republican administrations, engaged in a serious communications campaign at the highest levels, and negotiated as necessary to get the key votes in favor of the treaty.

On some issues, the administration will need to decide on a coherent policy internally and then more actively engage both its allies and opponents on Capitol Hill. One area where this will be important is the legal architecture of counterterrorism policy. It is widely understood that continuing to rely on the September 2001 congressional Authorization for Use of Military Force as the basis for detention and targeting operations is increasingly problematic as al Qaeda splinters apart and as the United States winds down combat operations in Afghanistan. The Obama administration also maintains publicly a commitment to closing Guantanamo. Yet it has not come forward with proposed legislative frameworks for dealing with these issues. Even though the president has said repeatedly that he wants to work with Congress on a more durable legal architecture for counterterrorism operations, the administration has been reactive and appears to be undecided about what, if anything, it wants from Congress.

Another area in which executive-congressional relations will feature heavily is Iran’s nuclear build-up, surely one of the most delicate and complex international crises the administration will face this year. After engaging seriously only at the last minute, it has had to swallow several times congressionally-mandated sanctions that it regards as counterproductive. As the administration tries to ramp up pressure, it will need to convince skeptical members of Congress that it is applying tough diplomatic pressure on other UN Security Council members and on Iran’s trading partners. If—under the most optimistic scenarios—it reaches a satisfactory negotiated solution (or establishes a process toward one) with Iran, it will need Congress onboard; otherwise it will find its freedom to maneuver and deliver on assurances severely constrained.

Iran proliferation causes nuclear war

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.

There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.

n-player competition

Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

### 4

The United States executive branch should publish and enforce an executive order to clarify that the United States will not engage in preventive war and will not employ offensive use of force without Congressional authorization.

Presidential practice is the only effective check and avoids the War Powers DA – plan and perm will be disregarded

Weiner, JD from Vanderbilt University, 2007

(Michael, “A Paper Tiger with Bite: A Defense of the War Powers Resolution,” <http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Weiner.pdf>)

In practice the WPR limits presidents’ outrageous unilateral uses of force. While critics of the WPR seem likely to oppose any legislation that stops short of emasculating the Executive into becoming the “messenger-boy”64 of Congress, they must remember that the foundation for the law of war lies in practice.65 Again, recall this Note’s suggestion that the WPR, and the law of war in general, should be viewed from a functionalist perspective. **Any law** that purports to control the actions of those involved in warfare **will only be followed if it allows the actor the chance to preserve his own interests**. Thus, while a soldier is interested in staying alive, and a commander is interested in preserving the lives of those under his command, the Executive is interested in both of these things as well as ensuring the national security of the entire nation. A law that does not afford the Executive sufficient flexibility to satisfy these interests is bound to be a dead-letter.

The WPR allows such flexibility, because while its requirements are clear black-letter law, its enforcement structure owes its strength to behavioral norms rather than law. The Executive has an incentive to abide by the WPR to avoid showing disrespect for Congress or the will of the U.S. public. However, he retains the legal freedom to function outside the WPR when he judges it to be manifestly clear (1) that the Nation’s interests require it, or (2) when he perceives that the will of the people is behind him.66 The WPR’s effectiveness can only be evaluated by its effect in practice. For this reason, this Note now surveys post-1973 presidential unilateral uses of force.

### solvency

Congress can’t check use of force

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 6-8

The role that Congress plays in deciding whether a war is continued or concluded is of intrinsic interest to academics, policymakers, and casual observers of contemporary American politics alike. Yet the belief that Congress retains some capacity to shape the conduct of military affairs after a venture is launched is also a critically important and untested proposition underlying most theories asserting congressional influence over the initiation of military action. Why, according to this emerging literature, do presidents facing a strong opposition party in Congress use force less frequently than do their peers with strong partisan majorities in Congress? The most commonly offered answer is that presidents anticipate Congress's likely reaction to a prospective use of force and respond accordingly.14 Presidents who confront an opposition-led Congress anticipate that it is more willing and able to challenge the administration's conduct of military action than a Congress controlled by their partisan allies. Therefore, the frequency with which presidents use force abroad covaries with the strength of their party in Congress. However, this anticipatory logic requires that Congress has the ability to raise the costs of military action for the president, once that action has begun. If Congress lacks this capacity, presidents have little reason to adjust their willingness to initiate the use of force in anticipation of an adverse congressional response." As a result, determining whether and how Congress can influence the scope and duration of ongoing military operations is critically important even to evaluating prior research that asserts congressional influence over the initiation of military actions. Without it, such analyses rest on shaky ground. Unfortunately, because the dynamics change dramatically once American troops are deployed abroad, simply drawing lessons from existing studies of interbranch dynamics in military policymaking at the conflict initiation phase and applying them to the conflict conduct phase is unlikely to offer much insight." The decision-making environment at the conflict conduct phase differs from that at the conflict initiation phase along at least three key dimensions: the incentives and constraints governing congressional willingness to challenge presidential discretion; the relative institutional capacities of the executive and legislative branches to affect military policymaking; and finally, the ability of unfolding conflict events to change further the political and strategic environment in which the two branches vie for power. With regard to the political constraints that limit would-be adversaries in Congress, the president may **be in an even stronger position** after American troops are deployed in the field. Ordering troops abroad is akin to other unilateral presidential actions; by seizing his office's capacity for independent action, a president can dramatically **change the status quo** and fundamentally alter the political playing field on which Congress and other actors must act to challenge his policies.17 Once the troops are overseas, the political stakes for any congressional challenge to the president's policies are inexorably raised; any such effort is subject to potentially ruinous charges of failing to support the troops. Georgia Senator Richard Russell's conversion from opposition to U.S. intervention in Vietnam in the early 196os to stalwart support for staying the course after Lyndon Johnson's escalation of the American commitment there illustrates this change: "We are there now, and the time for debate has passed. Our flag is committed, and—more importantly—American boys are under fire."" Russell's sentiment was loudly echoed forty years later in the allegations by the Bush administration and its partisan allies in Congress that any legislative efforts to curtail the war in Iraq undermined the troops. As a result of these potentially **intense political costs**, there are reasons to question whether Congress can mount an effective challenge to the policies of the commander in chief. If it cannot, this would compel a reassessment of prior theories asserting congressional influence over the initiation of military actions through the logic of anticipated response. Certainly, more empirical analysis is needed to answer this question.

### adventures

No impact to miscalc

Slocombe 9

Frmr Under Secretary of Defense for Policy; Caplin & Drysdale Attorneys (Walter, De-Alerting: Diagnoses, Prescriptions, and Side-Effects, <http://www.ewi.info/system/files/Slocombe.pdf>,)

Moreover, in recent years, both the US and Russia, as well as Britain and China, have modified their procedures so that even if a nuclear-armed missile were launched, it would go not to a “real” target in another country but – at least in the US case - to empty ocean. In addition to the basic advantage of insuring against a nuclear detonation in a populated area, the fact that a missile launched in error would be on flight path that diverged from a plausible attacking trajectory should be detectable by either the US or the Russian warning systems, reducing the possibility of the accident being perceived as a deliberate attack. De-targeting, therefore, provides a significant protection against technical error. These arrangements – PALs and their equivalents coupled with continued observance of the agreement made in the mid-90s on “de-targeting” – do not eliminate the possibility of technical or operator-level failures, but they come very close to providing absolute assurance that such errors cannot lead to a nuclear explosion or be interpreted as the start of a deliberate nuclear attack.6 The advantage of such requirements for external information to activate weapons is of course that the weapons remain available for authorized use but not susceptible of appropriation or mistaken use. The drawback from a deterrence and operational point of view is, of course, that the system for transmitting the information must not be susceptible of interruption – that is, there must be assurance that an authorized decision maker will be able to act and have the decision – and the accompanying authenticated orders and unlock combinations – communicated to and received by the operators of the weapon systems. Accordingly, a system of combination-locked safeties requires a highly survivable network for decision and communication with the operators. Otherwise there would be pressures for early transmission of the codes, with their insertion subject to a later execute order or even more dangerous, pre-delegation of authority to issue the execute orders. In this, as in other aspects of measures to meet the “never” requirement, a highly capable and highly survivable command and control system is essential.

They don’t solve spoofing or the President would figure out he’s being spoofed

No threat – weak leadership and no recent attacks

**Zenko and Cohen 12**, \*Fellow in the Center for Preventive Action at the Council on Foreign Relations, \*Fellow at the Century Foundation, (Micah and Michael, "Clear and Present Safety," March/April, Foreign Affairs, www.foreignaffairs.com/articles/137279/micah-zenko-and-michael-a-cohen/clear-and-present-safety

NONE OF this is meant to suggest that the United States faces no major challenges today. Rather, the point is that the problems confronting the country are manageable and pose minimal risks to the lives of the overwhelming majority of Americans. None of them -- separately or in combination -- justifies the alarmist rhetoric of policymakers and politicians or should lead to the conclusion that Americans live in a dangerous world.

Take terrorism. Since 9/11, no security threat has been hyped more. Considering the horrors of that day, that is not surprising. But the result has been a level of fear that is completely out of proportion to both the capabilities of terrorist organizations and the United States' vulnerability. On 9/11, al Qaeda got tragically lucky. Since then, the United States has been preparing for the one percent chance (and likely even less) that it might get lucky again. But al Qaeda lost its safe haven after the U.S.-led invasion of Afghanistan in 2001, and further military, diplomatic, intelligence, and law enforcement efforts have decimated the organization, which has essentially lost whatever ability it once had to seriously threaten the United States.

According to U.S. officials, al Qaeda's leadership has been reduced to two top lieutenants: Ayman al-Zawahiri and his second-in-command, Abu Yahya al-Libi. Panetta has even said that the defeat of al Qaeda is "within reach." The near collapse of the original al Qaeda organization is one reason why, in the decade since 9/11, the U.S. homeland has not suffered any large-scale terrorist assaults. All subsequent attempts have failed or been thwarted, owing in part to the incompetence of their perpetrators. Although there are undoubtedly still some terrorists who wish to kill Americans, their dreams will likely continue to be frustrated by their own limitations and by the intelligence and law enforcement agencies of the United States and its allies.

Their friedman impact cites – Kuwait, to Haiti, to Kosovo, to Afghanistan – disproves escalation

Political constraints check

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, March 2011, The Executive Unbound, p. 176-7

So far we have attempted to show that **the administrative state relaxes legal constraints** on the executive, **but generates political constraints** in the form of public opinion. In this chapter we fit this picture together with the fear of unbridled executive power that is such a prominent strand in liberal legalism. We suggest that liberal legalists overlook the importance of de facto constraints arising from politics, and thus equate a legally unconstrained executive with one that is unconstrained tout court. The horror of dictatorship that results from this fallacy and that animates liberal legalism is what we call "tyrannophobia." Tyranny looms large in the American political imagination. For the framers of the Constitution, Caesar, Cromwell, James II, and George III were antimodels; for the current generation, Hitler takes pride of place, followed by Stalin, Mao, and a horde of tyrants both historical and literary. Students read 1984 and Animal Farm and relax by watching Chancellor Palpatine seize imperial power in Star Wars. Unsurprisingly, comparisons between sitting presidents and the tyrants of history and fiction are a trope of political discourse. Liberals and libertarians routinely compared George W. Bush to Hitler, George III, and Caesar. Today, Barack Obama receives the same treatment, albeit in less respectable media of opinion. All major presidents are called a "dictator" or said to have "dictatorial powers" from time to time.' **Yet the U**nited **S**tates **has never had a Caesar or** a Cromwell, **or even come close** to having one, and rational actors should update their risk estimates in the light of experience, reducing them if the risk repeatedly fails to materialize. **By now, 235 years after independence, these risk estimates should be** close to zero. Why then does the fear of dictatorship—tyrannophobia—persist so strongly in American political culture? Is the fear justified, or irrational? Does tyrannophobia itself affect the risk of dictatorship? If so, does it reduce the risk or increase it?

No escalation or adventurism

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.

### warfighting

Congressional involvement cripples warfighting – extinction

\*\*\*This is their 1ac separation-of-powers author

Weinberger 9 [Seth Weinberger, Assistant Professor in the Department of Politics and Government at the University of Puget Sound, M.A. and Ph.D. in Political Science from Duke University, "Balancing War Powers in an Age of Terror", The Good Society, 18(2), <http://muse.jhu.edu/journals/good_society/v018/18.2.weinberger.html>]

**In wartime**, however, **it may be** neither expedient nor strategically sound **for the president to be forced to come before Congress for permission for each and every legislative action deemed necessary** for the war effort. C**ircumstances in war are** fluid and unpredictable**, and legislation passed at one time may quickly become irrelevant or obsolete. The deliberation and compromise that are the hallmarks of congressional legislation may be ill-suited to war, which demands** swift and decisive action **to keep on top of rapidly shifting military situations**. As one scholar puts it, "**Congress at war is not a pretty sight. The legislative branch can be questioning and judgmental, impatient for victories yet free with inexpert advice, slow to provide the men and materiel for combat, reluctant to vote the taxes needed to pay for the war, critical of generals, and careless with secrets**."25 **In times in which the country faces an** existential, or otherwise exceedingly dangerous, threat**, it may not behoove the president, the military, or the nation as a whole to require the president to ask Congress time and time again to enact laws to advance the war effort.**

Turns the whole case

**Li ‘9**

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

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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.

Nations make decisions on an issue-by-issue basis

**Ogoura 6** (Kazuo, President of the Japan Foundation, “The Limits of Soft Power”, <http://www.cgp.org/index.php?option=article&task=default&articleid=341>)

One blind spot in the soft power concept is the confusion over the source of this power. For Nye and many others, the power of soft power lies in “attraction.” The problem with this idea, however, is that it views things from the perspective of the party exercising power. Seen from the viewpoint of the party being influenced by the power, the question of whether accepting the power accords with this party’s own interests is likely to be a far more important consideration than the attraction of the power. Here we must keep in mind that sovereign nations in the international community act not on the basis of likes and dislikes but in accordance with their own interests. No matter how attractive a given country may be, other countries will not accept its attractive power if it obstructs their freedom of action or adversely affects their economic interests. Hollywood movies, for instance, are often cited as a source of American soft power, but in France they have been subject to partial restriction precisely because of their attractiveness. The justness and legitimacy of the exercise of power is often an issue in relation to the source of soft power. However, legitimacy is bound to be an issue regardless of whether the power is hard or soft. The fact that hard power is sometimes exercised without legitimacy stems from a peculiar way of thinking about the use of hard power, and this is a great problem. It is important to note that within the international community the exercise of military and nonmilitary power is basically the same—or, rather, it is when the power is military in nature that there is a need for strict legitimacy in its use. (But whereas military power can exert a coercive influence however vague its legitimacy, when the justification for the use of soft power is tenuous this can prompt the party on the receiving end to resist or refuse the power, preventing the party exercising the power from achieving its aims.) The other side of this problem is the need to consider just what the international justification for military action might be. Leaving this issue to one side, though, it is certainly problematic to regard the legitimacy of soft power as the source of its clout.

Multilat fails - no mechanism for action

Haass 7/24/13

Richard N. Haass, President of the Council on Foreign Relations, previously served as Director of Policy Planning for the US State Department, Project Syndicate, July 24, 2013, "What International Community?", http://www.project-syndicate.org/commentary/the-broken-tools-of-global-cooperation-by-richard-n--haass

NEW YORK – Whenever something bad happens – Iran moving closer to acquiring nuclear weapons, North Korea firing another missile, civilian deaths reaching another grim milestone in Syria’s civil war, satellites revealing an alarming rate of polar-ice melt – some official or observer will call upon the international community to act. There is only one problem: there is no “international community.” Part of the reason stems from the absence of any mechanism for “the world” to come together. The United Nations General Assembly comes closest, but little can be expected from an organization that equates the United States or China with, say, Fiji or Guinea-Bissau. To be fair, those who founded the UN after World War II created the Security Council as the venue in which major powers would meet to determine the world’s fate. But even that has not worked out as planned, partly because the world of 2013 bears little resemblance to that of 1945. How else could one explain that Britain and France, but not Germany, Japan, or India, are permanent, veto-wielding members? Alas, there is no agreement on how to update the Security Council. Efforts like the G-20 are welcome, but they lack authority and capacity, in addition to suffering from excessive size. The result is “multilateralism’s dilemma”: the inclusion of more actors increases an organization’s legitimacy at the expense of its utility. No amount of UN reform could make things fundamentally different. Today’s major powers do not agree on the rules that ought to govern the world, much less on the penalties for breaking them. Even where there is accord in principle, there is little agreement in practice. The result is a world that is messier and more dangerous than it should be. Consider climate change. Burning fossil fuels is having a measurable impact on the earth’s temperature. But reducing carbon emissions has proved impossible, because such a commitment could constrain GDP growth (anathema to developed countries mired in economic malaise) and impede access to energy and electricity for billions of people in developing countries, which is unacceptable to China and India. Stopping the spread of nuclear weapons would seem a more promising issue for global collaboration. The Nuclear Non-Proliferation Treaty (NPT) limits the right to possess nuclear weapons to the Security Council’s five permanent members, and then only temporarily. But agreement is thinner than it appears. The NPT allows countries the right to develop nuclear energy for purposes such as electricity generation, a loophole that allows governments to build most of what is necessary to produce the fuel for a nuclear weapon. The inspection regime created in 1957 under the International Atomic Energy Agency (IAEA) is a gentlemen’s agreement; inspectors can inspect only those facilities that are made known to them by the government in question. Governments (such as Iran’s) can and do carry out illegal nuclear activities in secret sites that international inspectors either do not know about or cannot enter. At least as important, there is no agreement on what to do when a country violates the NPT, as Iran and North Korea (which withdrew from the treaty in 2003) have done. More international cooperation exists in the economic realm. There has been real progress toward reducing tariff barriers; the World Trade Organization has also established a dispute-resolution mechanism for its 159 members. But progress on expanding free trade at the global level has stalled, as many countries disagree on the treatment of agricultural goods, the elimination of subsidies, and trade in services. Meanwhile, cooperation in the realm of cyberspace is just getting started – with difficulty. The US is most concerned about cyber security and the protection of intellectual property and infrastructure. Authoritarian governments are more concerned about information security – the ability to control what is available on the Internet in order to maintain political and social stability. There is no agreement on what, if anything, constitutes an appropriate target for espionage. The prevalence of non-state actors is further complicating efforts. Another area where there is less international community than meets the eye is human suffering. Governments that attack their own people on a large scale, or allow such attacks to be carried out, expose themselves to the threat of outside intervention. This “Responsibility to Protect,” or R2P, was enshrined by the UN in 2005. But many governments are concerned that R2P raises expectations that they will act, which could prove costly in terms of lives, military expenditure, and commercial priorities. Some governments are also worried that R2P could be turned on them. Russian and Chinese reticence about pressuring governments that deserve censure and sanction stems partly from such concerns; the absence of consensus on Syria is just one result. In short, those looking to the international community to deal with the world’s problems will be disappointed. This is not reason for despair or grounds for acting unilaterally. But so long as “international community” is more hope than reality, multilateralism will have to become more varied.

### sop

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 modeling

Zenko ‘13 [Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise, accessed 6-12-13, mss]

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

No human rights cred and they don’t solve

**Mariam 8/18/**13 – PhD, JD, teaches political science at California State University, San Bernardino (Alemayehu, 8/18/2013, “Is America Disinventing Human Rights?,” http://www.ethiopianreview.us/48632)JCP

In his 1981 farewell speech, President Jimmy Carter said, “America did not invent human rights. In a very real sense, it is the other way round. Human rights invented America.”

In a New York Times op-ed piece in June 2012, Carter cautioned, “At a time when popular revolutions are sweeping the globe, the United States should be strengthening, not weakening, basic rules of law and principles of justice enumerated in the Universal Declaration of Human Rights. But instead of making the world safer, America’s violation of international human rights abets our enemies and alienates our friends.”

Carter also raised a number of important questions: Has the U.S. abdicated its moral leadership in the arena of international human rights? Has the U.S. betrayed its core values by maintaining a detention facility at Guantánamo Bay, Cuba, and subjecting dozens of prisoners to “cruel, inhuman or degrading treatment or punishment” and leaving them without the “prospect of ever obtaining their freedom”? Does the arbitrary killing of a person suspected to be an enemy terrorist in a drone strike along with women and children who happen to be nearby comport with America’s professed commitment to the rule of law and human rights?

In 1948, the U.S. played a central leadership role in “inventing” the principal instrument which today serves as the bedrock foundation of modern human rights. The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in December 1948, set a “common standard of achievement for all peoples and all nations” in terms of equality, dignity and rights. Mrs. Eleanor Roosevelt, the widow of President Franklin D. Roosevelt, chaired the committee that drafted the UDHR. Eleanor remains an unsung heroine even though she was the mother of the modern global human rights movement. Without her, there would have been no UDHR; and without the UDHR, it is doubtful that the plethora of subsequent human rights conventions and regimes would have come into existence. Remarkably, she managed to mobilize, organize and proselytize human rights even though she had no legal training, diplomatic experience or bureaucratic expertise. She used her skills as political activist and advocate in the cause of freedom, justice and civil rights to work for global human rights.

Is America disinventing human rights?

It seems the U.S. is “disinventing” human rights through the pursuit of double (triple, quadruple) standard of human rights policy wrapped in a cover of diplocrisy. In Africa, the U.S. has one set of standards for Robert Mugabe’s Zimbabwe and Omar al-Bashir’s Sudan. Mugabe and Bashir are classified as the nasty hombres of human rights in Africa. The U.S. has targeted both regimes for crippling economic sanctions and diplomatic pressure. The U.S. has frozen the assets of Mugabe’s family and henchmen because the “Mugabe regime rules through politically motivated violence and intimidation and has triggered the collapse of the rule of law in Zimbabwe.”

The U.S. calls “partners” equally brutal regimes in Africa which serve as its proxies. Paul Kagame of Rwanda, Yuweri Museveni of Uganda and the deceased leader of the regime in Ethiopia are lauded as the “new breed of African leaders” and crowned “partners”. Uhuru Kenyatta, recently elected president of Kenya and a suspect under indictment by the International Criminal Court (ICC) for crimes against humanity is said to be different than Bashir who faces similar ICC charges. In 2009, Ambassador Susan E. Rice, then-U.S. Permanent Representative to the United Nations, demanded Bashir’s arrest and prosecution: “The people of Sudan have suffered too much for too long, and an end to their anguish will not come easily. Those who committed atrocities in Sudan, including genocide, should be brought to justice.” No official U.S. statement on Uhuru’s ICC prosecution was issued.

The U.S. maintains excellent relations with Teodoro Obiang Nguema Mbasogo of Equatorial Guinea who has been in power since 1979 because of that country’s oil reserves; but all of the oil revenues are looted by Obiang and his cronies. In 2011, the U.S. brought legal action in federal court against Obiang’s son to seize corruptly obtained assets including a $40 million estate in Malibu, California overlooking the Pacific Ocean, a luxury plane and a dozen super-sports cars worth millions of dollars. The U.S. has not touched any of the other African Ali Babas and their forty dozen thieving cronies who have stolen billions and stashed their cash in U.S. and other banks.

Despite lofty rhetoric in support of the advancement of democracy and protection of human rights in Africa, the United States continues to subsidize and coddle African dictatorships that are as bad as or even worse than Mugabe’s. The U.S. currently provides substantial economic aid, loans, technical and security assistance to the repressive regimes in Ethiopia, Congo (DRC), Uganda, Rwanda and elsewhere. None of these countries holds free elections, allow the operation of an independent press or free expression or abide by the rule of law. All of them are corrupt to the core, keep thousands of political prisoners, use torture and ruthlessly persecute their opposition. Yet they are deemed U.S. “partners”.

“Principled disengagement” as a way of reinventing an American human rights policy?

If the Obama Administration indeed has a global or African human rights policy, it must be a well-kept secret. In March 2013, Michael Posner, U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor said American human rights policy is based on “principled engagement”: “We are going to go to the United Nations and join the Human Rights Council and we’re going to be part of it even though we recognize it doesn’t work… We’re going to engage with governments that are allies but we are also going to engage with governments with tough relationships and human rights are going to be part of those discussions.” Second, the U.S. will follow “a single standard for human rights, the Universal Declaration of Human Rights, and it applies to all including ourselves…” Third, consistent with President “Obama’s personality”, the Administration believes “change occurs from within and so a lot of the emphasis… [will be] on how we can help local actors, change agents, civil society, labor activists, religious leaders trying to change their societies from within and amplify their own voices and give them the support they need…”

On August 14, according to Egyptian government sources, 525 protesters, mostly members of the Muslim Brotherhood, were killed and 3,717 injured at the hands of Egyptian military and security forces. It was an unspeakably horrifying massacre of protesters exercising their right to peaceful expression of grievances.

On August 15, President Obama criticized the heavy-handed crackdown on peaceful protesters with the usual platitudes. “The United States strongly condemns the steps that have been taken by Egypt’s interim government and security forces. We deplore violence against civilians.” His message to the Egyptian people was somewhat disconcerting in light of the massacre. “America cannot determine the future of Egypt. We do not take sides with any particular party or political figure. I know it’s tempting inside Egypt to blame the United States.”

In July 2009, in Ghana, President Obama told Africa’s “strongmen”, “History offers a clear verdict: governments that respect the will of their own people are more prosperous, more stable, and more successful than governments that do not…. No person wants to live in a society where the rule of law gives way to the rule of brutality… Make no mistake: history is on the side of these brave Africans [citizens and their communities driving change], and not with those who use coups or change Constitutions to stay in power. Africa doesn’t need strongmen, it needs strong institutions.”

President Obama has a clear choice in Egypt between “those who use coups to stay in power” and the people of Egypt peacefully protesting in the streets. Now he says, “We don’t take sides…” By “not taking sides”, it seems he has taken sides with Egypt’s strongmen who “use coups to stay in power”. So much for “principled engagement”!

Obama reassured the Egyptian military that the U.S. does not intend to end or suspend its decades-old partnership with them. He cautioned the military that “While we want to sustain our relationship with Egypt, our traditional cooperation cannot continue as usual while civilians are being killed in the streets.” He indicated his disapproval of the imposition of “martial law” but made no mention of the manifest military coup that had ousted Morsy. He obliquely referred to it as a “military intervention”. He made a gesture of “action” cancelling a symbolic military exercise with the Egyptian army. There will be no suspension of U.S. military aid to Egypt and no other sanctions will be imposed on the Egyptian military or government.

I am not clear what Obama’s human rights policy of “principled engagement” actually means. But I have a lot of questions about it: Does it mean moral complacency and tolerance of the crimes against humanity of African dictators for the sake of the war on terror and oil? Is it a euphemism for abdication of American ideals on the altar of political expediency? Does it mean overlooking and excusing the crimes of ruthless dictators and turning a blind eye to their bottomless corruption? Does “principled engagement” mean allowing dictators to suck at the teats of American taxpayers to satisfy their insatiable aid addiction while they brutalize their people?

The facts of Obama’s “principled engagement” tell a different story. In May 2010, after the ruling party in Ethiopia declared it had won 99.6 percent of the seats in parliament, the U.S. demonstrated its “principled engagement” by issuing a Statement expressing “concern that international observers found that the elections fell short of international commitments” and promised to “work diligently with Ethiopia to ensure that strengthened democratic institutions and open political dialogue become a reality for the Ethiopian people.” There is no evidence that the U.S. did anything to “strengthen democratic institutions and open political dialogue to become a reality for the Ethiopian people.”

When two ICC indicted suspects in Kenya (Kenyatta and Ruto) won the presidency in Kenya a few months ago, the U.S. applied its “principled engagement” in the form of a robust defense of the suspects. Johnnie Carson, the former United States Assistant Secretary of State for African Affairs, said the ICC indictments of Bashir and Uhuru/Ruto are different. “I don’t want to make a comparison with Sudan in its totality because Sudan is a special case in many ways.” What makes Bashir and Sudan different, according to Carson, is the fact that Sudan is on the list of countries that support terrorism and Bashir and his co-defendants are under indictment for the genocide in Darfur. Since “none of that applies to Kenya,” according to Carson, it appears the U.S. will follow a different policy.

President Obama says the U.S. will maintain its traditional partnership with Egypt’s military, Egypt’s “strongmen”. At the onset of the Egyptian Revolution in 2011, Obama and his foreign policy team froze in stunned silence, flat-footed and twiddling their thumbs and scratching their heads for days before staking out a position on that popular uprising. They could not bring themselves to use the “D” word (dictator as in Hosni Mubarak) to describe events in Egypt then. Today Obama cannot bring himself to say the “C” word (as in Egyptian military coup).

Obama is in an extraordinary historical position as a person of color to advance American ideals and values throughout the world in convincing and creative ways. But he cannot advance these ideals and values through a hollow notion of “principled engagement.”

Rather, he must adopt a policy of “principled disengagement” with African dictators. That does not mean isolationism or a hands off approach to human rights. By “principled disengagement” I mean a policy and policy outcome that is based on measurable human rights metrics. Under a policy of “principled disengagement”, the U.S. would establish clear, attainable and measurable human rights policy objectives in its relations with African dictatorships. The policy would establish minimum conditions of human rights compliance. For instance, the U.S. could set some basic criteria for the conduct of free and fair elections, press and individual freedoms, limits on arbitrary arrests and detentions, prevention of extrajudicial punishments, etc. Using its annual human rights assessments, the U.S. could make factual determinations on the extent to which it will engage or disengage with a particular regime. “Partnership” status and the benefits that come with it will be reserved to those regimes that have good and improving records on specific human rights measures. Regimes that steal elections, win elections by 99.6 percent, engage in arbitrary arrests and detentions and other human rights violations would be denied “partnership” status and denied aid, loans and technical assistance. Persistent violators of human rights would be given a compliance timetable to improve their records and provided appropriate assistance to achieve specific human rights goals. If regimes persist in a pattern and practice of human rights violations, the U.S. could raise the stakes and impose economic and diplomatic sanctions.

The ‘‘Ethiopia Democracy and Accountability Act of 2007’’ contained many important statutory provisions that could serve as a foundation for “principled disengagement”.

Obama’s “principled engagement” seems to be a justification for expediency at the cost of American ideals. Until he decides to stand for principle, instead of standing behind the rhetoric of “principled engagement”, he will continue to find himself on a tightrope of moral, legal and political ambiguity. The U.S. cannot “condemn” and “deplore” its way out of its human rights obligations or global leadership role. Yes, the U.S. must take sides! It must take a stand either with the victims of human rights abuses throughout the world or the human rights abusers of the world. If Obama wants to save the world from strongmen with boots and in designer suits with briefcases full of cash, he should pursue a policy of “principled disengagement”. But he should start by reflecting on the words he spoke during his first inauguration speech:

Our Founding Fathers, faced with perils we can scarcely imagine, drafted a charter to assure the rule of law and the rights of man, a charter expanded by the blood of generations. Those ideals still light the world, and we will not give them up for expedience’s sake.”

US isn’t key

**Scruton 9/7**/13 – BA Politics, Willamette University UK (Brett, 9/7/13, John Kerry Wants to Save America's Global Credibility When There is None,” http://www.policymic.com/articles/62051/john-kerry-wants-to-save-america-s-global-credibility-when-there-is-none)JCP

Amongst the debate over military intervention in Syria, numerous phrases, such as "human rights" and "humanity's red line" have been thrown around; none are as curious as "America's credibility," though. Secretary of State John Kerry claimed that this is at stake in the upcoming congressional vote. Kerry's not alone. What exactly is America's credibility that it factors as a legitimate reason for military action? If it's a case of backing up public statements like the "red line," and building up trust and credence, the Obama administration should drop it. In order to maintain credibility in foreign policy, the U.S. needs to have some credibility in foreign policy, and it largely doesn't. It's time to dismiss the criteria of "America's credibility."

By looking at credibility as a factor, you're practically looking at international relations through the lens of a neighborhood with street cred. Fine. Street cred can come in the form of being the Godfather of sorts, taking care of the general community. The key to all of this is having a record that gets you street cred in the first place. However, that's hard to do with a poor record.

Looking to the Obama administration alone, it's pretty difficult to expect complete trust, thanks to Edward Snowden. Wiretapping European allies, let alone gathering data from unsuspecting American citizens isn't a great, "Hey, you should trust U.S."

Even with open policies, there's a lack of success. There's the situation in Afghanistan, where Taliban influence is still prevalent after a decade of war. The Afghan president, Hamid Karzai has also publicly criticized Obama and acknowledged CIA bribes. There are numerous credibility problems there.

If there is an accepted level for America's credibility, it's probably pretty low. To the outside world, the overlap of Bush and Obama administration policies doesn't give the perception of a problem with one party, but rather with American politics in general. History doesn't help. Look to the declassification of CIA documents revealing the U.S. role in helping Saddam Hussein against Iran. Speaking of Saddam, the Iraq war might be the biggest deficit of American credibility in recent years.

Plus, there's a lot to debate about Syria that isn't American credibility. National security, and whether there's strategic value to intervention, is one debate that's far more important criteria. The moral obligation of enforcing human rights is another. Is the image of America more important than these debates?

There are those who say our allies and enemies are watching. Our allies are already speaking. Britain is out. France still supports Obama, and there hasn't been a congressional vote yet. Concerning our enemies, opinions are unlikely to change. North Korea's stance is unlikely to change due to Syria, and Al-Qaeda's definitely will not. Syria, while a growing problem, is not the cornerstone of the U.S. relationship with the rest of the world.

Whatever way you lean on Syria, American credibility probably isn't your top justification. That's because it's more of a myth and self-justification, rather than a valid criteria for military intervention.

No one trusts the US

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One subtle difference between the U.S. and Chinese reports is actually rather telling. Specifically, whereas the U.S. human rights reports focus on mainly political and social issues, China’s report on the United States focuses heavily on economic issues. For instance, the evidence China cites about ethnic discrimination in America points to minorities’ inferior economic opportunities in society. When criticizing China’s treatment of its ethnic populations, the U.S. report focuses on the level of surveillance and lack of civil and political rights that these groups enjoy.

In the one sense, this may just reflect the fact that each country is more vulnerable to charges of discrimination made on political or economic rights than the other. **Still, it seems to me to point to a larger difference on how the Western world in general, but the United States in particular, views human rights, compared to the rest of the world conceives of them.**

Specifically, the U.S. and the West seem to put political rights above all else, as seen from, among other things, the emphasis Washington placed on holding elections in Afghanistan and Iraq when it first invaded those countries. By contrast, it has placed far less importance on ensuring effective governance and economic opportunities for Afghans and Iraqis. The same is true with how it often views North Korean refugees as fleeing the country to pursue freedom in South Korea, when usually the refugees themselves report just wanting greater economic opportunities in China or elsewhere.

This is not to say that people worldwide don't seek political freedoms as well; it just suggests people place economic security before political freedom if forced to choose.

We’ll screw up implementation and enforcement

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Diplomacy by hypocrisy is “diplocrisy”.

Edmund Burke, the British statesman and philosopher, said “Hypocrisy can afford to be magnificent in its promises, for never intending to go beyond promise, it costs nothing.” We’ve heard many promises on human rights in Africa from President Obama and his Administration over the past four years. “We will work diligently with Ethiopia to ensure that strengthened democratic institutions and open political dialogue become a reality for the Ethiopian people… We will work for the release of jailed scholars, activists, and opposition party leaders… We align ourselves with men and women around the world who struggle for the right to speak their minds, to choose their leaders, and to be treated with dignity and respect…. Africa’s future belongs to its young people… We’re going to keep helping empower African youth… Africa doesn’t need strongmen, it needs strong institutions. We support strong and sustainable democratic governments…. America will be more responsible in extending our hand. Aid is not an end in itself… [Dictatorship] is not democracy, [it] is tyranny, and now is the time for it to end… America is watching…” All empty promises and cheap talk.

Last week, the U.S. State Department released its annual Human Rights Report for 2013. In his remarks launching that report, Secretary of State John Kerry announced

…[These] reports show brave citizens around the world and those who would abuse them that America is watching…

So anywhere that human rights are under threat, the United States will proudly stand up, unabashedly, and continue to promote greater freedom, greater openness, and greater opportunity for all people. And that means speaking up when those rights are imperiled. It means providing support and training to those who are risking their lives every day so that their children can enjoy more freedom. It means engaging governments at the highest levels and pushing them to live up to their obligations to do right by their people...

Is America really “watching” and “standing up”?

I am always curious when someone is watching. Big Brother is watching! Aargh!!

When Kerry tells “brave citizens” in Ethiopia like Eskinder Nega, Reeyot Alemu, Wobshet Taye, Sertkalem Fasil, Bekele Gerba, Olbana Lelisa, Abubekar Ahmed, Ahmedin Jebel, Ahmed Mustafa and so many others “America is watching”, what does he mean? **Does he mean America is watching them rot** in Meles **Zenawi Prison #1** in Kality and/**or #2** in Zewai**? Does he mean America is watching** Ethiopia **like birdwatchers watch birds?** Or like amateur astronomers watching the starry night sky? Perhaps like daydreaming tourists at the beach watching the waves crash and the summer clouds slowly drifting inland?

Is “watching” a good or a bad thing? If we believe Albert Einstein, watching is no good. “**The world will not be destroyed by those who do evil, but by those who watch them without doing anything.”** (Silent watchers, watch out!) Like Nero Claudius Caesar who watched Rome burn from the hilltops singing and playing his lyre. Or, (I hate to say it but it would be hypocritical of me not to) like **Susan Rice who watched Rwanda burn. Her only question was, “If we use the word 'genocide' and are seen as doing nothing, what will be the effect on the November [Congressional] election?”**

I like it when Human Rights Watch (HRW) watches because when they watch they witness. They saw the genocide and crimes against humanity in the Ogaden and Gambella and they have witnesses. They watched independent journalists jacked up in kangaroo court and railroaded to Meles Prison #1 or #2. (Sounds like the equivalent of a hotel chain? Well, they do put chain and ball on innocent people at the Meles Zenawi Hilton.)

I like watching watchdogs watch crooks, criminals and outlaws. I mean “watchdog journalists” like Eskinder, Reeyot, Serkalem, Woubshet and many others. These journalists used to watch power abusers and alert citizens of the crimes they were watching. Now the criminals are watching them in solitary at the Meles Zenawi Hilton.

I also like the way the watchdogs’ watchdog watch those who dog the watchdogs. I am referring to the Committee to Protect Journalists (CPJ). The CPJ guys are like McGruff, the crime watchdog, always tracking to “take bites out of crimes” committed against journalists. Not long ago, they watched and sounded the alarm that Reeyot Alemu was heading to solitary confinement just because she complained about inhumane and inhuman treatment in Meles Zenawi Prison. Last week, the CPJ watched Woubshet Taye being hauled from the Meles Zenawi Prison #1 to Meles Zenawi Prison #2. (They think he will be forgotten by the world lost in the armpits of Meles Zenawi Prison #2.)

I pity those who just watch. Like the “foolish and senseless people, who have eyes but do not see, who have ears but do not hear” or those who may “indeed see but not perceive, and may indeed hear but not understand.” I have no idea what the Obama Administration is watching, perceiving or seeing in Ethiopia? I would like to believe they are watching human rights abuses and abusers and the criminals against humanity. But how is it possible to watch with arms folded, ears plugged and wearing welding goggles? I wonder: Could they be watching the tragicomedy, “The Trials and Tribulations of the Apostles of Meles”? Perhaps they are watching kangaroo courts stomping all over justice and decency? I am certain they are not watching the political prisoners. Perhaps they are watching the horror movie, “Dystopia in Ethiopia”? Sure, it’s a scary movie but it really isn’t real. But if it is real, what’s the big deal? The same horror film has been playing all over Africa since before independence. Get over it!

From where I am watching, the Obama Administration seems to be watching Ethiopia peekaboo style; you know, cover your face with the palms of your hand and “watch” between the fingers. “I seee yooou!” That is, stealing elections, sucking the national treasury dry, handing over the best land in the country to bloodsucking multinationals, jailing journalists and ripping off the people.

Doesn’t “America is watching,” sound like Orwellian doublespeak. You know, “War is peace. Freedom is slavery. Ignorance is strength.” Dictatorship is democracy. Watching is turning a blind eye.

When America is watching, those being watched in Ethiopia are watching America watching them. They watch America waffling and shuffling, double-talking, flip-flopping and dithering, equivocating, pretending, hemming and hawing and hedging and dodging. But those chaps in Ethiopia watch like George Orwell’s Big Brother (Nineteen Eighty-Four) who watched everybody and everything in Oceania. Well, Big Brother Meles is gone from Ethiopiana but the "Little Brothers of the Party of Meles" keep on watching and yodeling:

…The Party seeks power entirely for its own sake. We are not interested in the good of others; we are interested solely in power, pure power. What pure power means you will understand presently. We are different from the oligarchies of the past in that we know what we are doing. All the others, even those who resembled ourselves, were cowards and hypocrites. The German Nazis and the Russian Communists came very close to us in their methods, but they never had the courage to recognize their own motives. They pretended, perhaps they even believed, that they had seized power unwillingly and for a limited time, and that just around the corner there lay a paradise where human beings would be free and equal. We are not like that. We know what no one ever seizes power with the intention of relinquishing it. Power is not a means; it is an end. One does not establish a dictatorship in order to safeguard a revolution; one makes the revolution in order to establish the dictatorship. The object of persecution is persecution. The object of torture is torture. The object of power is power. Now you begin to understand me.

Oceania Ethiopiana!

I have been watching America watching Ethiopia for a very long time. I have been watching the Obama Administration watching and coddling the criminals against humanity in Ethiopia, Rwanda and Uganda. I must confess that I enjoy watching and re-watching President Obama’s speeches in Accra, Cairo, Istanbul and elsewhere. “History is on the side of brave Africans...” (whatever that means).

I liked watching former Secretary of State Hilary Clinton declare moral victory on the Chinese and capture the commanding moral heights. “We don’t want to see a new colonialism in Africa… It is easy to come in, take out natural resources, pay off leaders and leave… and not leave much behind for the people who are there.” Right on! Power to the people of Africa! Down with colonialism! (I think that may be a bit passé.)

Sometimes I feel bad watching. When I watch hard earned American tax dollars bankrolling ruthless African dictators who laugh straight to the bank to deposit their American tax dollars, I really get bummed out. I am peeved when I watch the American people being flimflammed into believing their tax dollars are supporting democracy, human rights and American values in Africa. But when I watch those miserable panhandlers “enfolded in the purple of Emperors” bashing and trashing America on their way back from depositing their foreign aid welfare checks, I just plain get pissed off!!

“America is watching,” but is America watching where its tax dollars are going? It is NOT. According to an audit report by the Office of the Inspector General of US AID in March 2010 (p. 1), there is no way to determine the fraud, waste and abuse of American tax dollars in Ethiopia:

The audit was unable to determine whether the results reported in USAID/Ethiopia’s Performance Plan and Report were valid because agricultural program staff could neither explain how the results were derived nor provide support for those results. Indeed, when the audit team attempted to validate the reported results by tracing from the summary amounts to the supporting detail, it was unable to do so at either the mission or its implementing partners… In the absence of a complete and current performance management plan, USAID/Ethiopia is lacking an important tool for monitoring and managing the implementation of its agricultural program.

Watching diplocrisy in Technicolor

There is nothing more mind-bending and funny than watching hypocrisy in Technicolor. Earlier this month, in an act of shameless diplocrisy, Secretary Kerry expressed grave reservations about the legitimacy of the election of Nicolás Maduro as president of Venezuela. Maduro won the election by a razor thin margin of 50.66 percent of the votes. Opposition leader Henrique Capriles rejected the results alleging irregularities and demanding a recount of all votes.

Kerry supported Capriles’ demand for a recount. “We think there ought to be a recount… Obviously, if there are huge irregularities, we are going to have serious questions about the viability of that [Maduro] government.” White House spokesman Jay Carney also issued a statement calling for a recount of all the votes.

… Given the tightness of the result -- around 1 percent of the votes cast separate the candidates -- the opposition candidate and at least one member of the electoral council have called for a 100 percent audit of the results. And this appears an important, prudent and necessary step to ensure that all Venezuelans have confidence in these results. In our view, rushing to a decision in these circumstances would be inconsistent with the expectations of Venezuelans for a clear and democratic outcome.

In May 2010 when the late Meles Zenawi claimed 99.6 percent victory in the parliamentary elections and leaders from Medrek, the largest opposition coalition, and the smaller All Ethiopia Unity Party alleged glaring election fraud, vote rigging and denial of American food aid to poor farmers unless they voted for the ruling party, the U.S. response was “see no evil, hear no evil and speak no evil.” White House National Security Spokesman Mike Hammer could only express polite “concern” and muted “disappointment”:

We acknowledge the conclusion of Ethiopia’s parliamentary elections on May 23, 2010...

We are concerned that international observers found that the elections fell short of international commitments. We are disappointed that U.S. Embassy officials were denied accreditation and the opportunity to travel outside of the capital on Election Day to observe the voting. The limitation of independent observation and the harassment of independent media representatives are deeply troubling.

An environment conducive to free and fair elections was not in place even before Election Day. In recent years, the Ethiopian government has taken steps to restrict political space for the opposition through intimidation and harassment, tighten its control over civil society, and curtail the activities of independent media. We are concerned that these actions have restricted freedom of expression and association and are inconsistent with the Ethiopian government’s human rights obligations.

…We urge the Ethiopian government to ensure that its citizens are able to enjoy their fundamental rights. We will work diligently with Ethiopia to ensure that strengthened democratic institutions and open political dialogue become a reality for the Ethiopian people.

Victory by 50.66 percent is irrefutable evidence of election fraud in Venezuela but "all Ethiopians should have confidence" in the 99.6 percent election victory of Meles Zenawi? Sounds like election certification in Oceania. Rigged elections are free and fair elections!

Watching “fools, idiots” and sanctimonious diplocrites

If Susan Rice is to be believed, critics of Meles Zenawi and his regime (and by implication critics of U.S. policy that supports the regime) are “fools and idiots”. I guess if one must choose between being a “fool/idiot” and a hypocrite/diplocrite, one is well-advised to choose the former. A fool does or does not do the right thing because s/he lacks intelligence and understanding. S/he has the potential to learn and make right choices. But the cunning diplocrite does the wrong thing with full knowledge and understanding of the wrongfulness of his/her acts. S/he is unteachable and incorrigible. No one knows more about the difference between right and wrong than diplocrites, yet they do wrong because they don’t give a \_ \_ \_ \_!

The U.S. has been practicing diplocrisy in Ethiopia for the past two decades. It has propped up the regime of Meles Zenawi with billions of dollars of “development” and “humanitarian” aid while filling the stomachs of starving Ethiopians with empty words and emptier promises. Since 1991, the West in general has provided Meles’ regime nearly $30 billion in aid. In 2008 alone, $3 billion in international aid was delivered on a silver platter to Meles, more than any other nation in sub-Saharan Africa. In March 2011, Howard Taylor, head of the British aid program declared Ethiopia will receive $2 billion in British development assistance. In 2010, the EU delivered £152m to Meles Zenawi.

In December 2010, Human Rights Watch called on the Development Assistance Group (DAG), a coordinating body of 26 foreign donor institutions for Ethiopia to “independently investigate allegations that the Ethiopian government is using development aid for state repression.” In July 2010, a DAG-commissioned study issued a whitewash denying all allegations of improper use of aid. In August 2011, the Bureau of Investigative Journalism and the BBC reported the “Ethiopian government is using millions of pounds of international aid to punish their political opponents.” The report presented compelling evidence of how “aid is being used as a weapon of oppression propping up the government of Meles Zenawi.” Despite numerous documented reports of aid abuse and misuse, Western leaders and governments continue to hide behind a policy of plausible deniability and the massaged and embellished reports of swarms faceless international poverty-mongers creeping invisibly in Ethiopia.

The Center for Global Development in its comprehensive 2012 report cautioned, “The United States could be making a dangerous long-term bet with its assistance dollars by placing so little emphasis on governance in Ethiopia”, and US policymakers should temper their expectations for future development prospects in Ethiopia under the current regime. Sorry, no one is listening at the U.S. State Department, only watching.

Watching truth on the scaffold and wrong on the throne

“America is watching.” But is anybody watching America? The people of Ethiopia are watching America asking, “Is America watching? Watching what?”

The powerful don’t believe the powerless are watching them because they equate powerlessness with blindness. The powerless do watch because that is all they can do. They watch boots pressing down on their necks. They watch crimes committed against them as they sit helplessly with empty stomachs and hearts filled with terror. When Kerry says, “America is watching”, he should be mindful that Ethiopia’s poor and powerless are watching America with outrage on their faces, sorrow in their hearts and resentment in their minds.

#### Econ ties outweigh everything

Daniel **Lynch 12**, IR prof at USC, “Why Ma Won the Elections and what’s Next for Taiwan and China”, January 15, <http://www.foreignaffairs.com/articles/137029/daniel-lynch/why-ma-won-the-elections-and-whats-next-for-taiwan-and-china?page=show>

During the campaign, most observers insisted that the election was not about cross-strait relations but about socio-economic issues, including rapid economic growth amid worsening inequality, reduced career opportunities for recent college graduates, and unaffordable housing costs. In fact, socio-economic issues are inseparable from cross-strait issues. Ma ran on his record of improving ties between China and Taiwan, claiming that friendship meant stability and prosperity and that a reversion to DPP rule would throw Taiwan back into the dark days of the mid-2000s, when DPP President Chen Shui-bian's avowedly Taiwan-centric policies blocked negotiations even on direct passenger plane flights across the Taiwan Strait. Tsai, no protectionist or isolationist herself, promised not to roll back cooperation with China for the same reason. Her main criticism of Ma was that he is naive about China. According to her, issues of further integration -- such as allowing Chinese professionals and white-collar workers to take jobs in Taiwan -- should be approached cautiously. For their part, voters seem to have accepted Ma's contention that reducing cross-strait tensions improves the country's economic well-being. Indeed, more than ever, Taiwan's economy is dependent on China's. This is partly a result of market dynamics (Taiwanese capital flows across the Taiwan Strait in search of lower production costs) and partly a result of the KMT and Chinese Communist Party's efforts to facilitate integration. By the end of 2011, some 80,000 Taiwanese firms had invested up to $200 billion in mainland factories, research and development centers, stores, and restaurants. And annual trade between the two sides exceeded $150 billion. Meanwhile, out of a total population of 23 million, one million or more Taiwanese live in China. Directly or indirectly, the majority of Taiwanese households depend on Chinese economic dynamism for their livelihood. These are the dynamics that had helped Ma win a landslide victory in the 2008 Taiwan elections to begin with. He had made the campaign promise to pursue something like a Taiwanese-Chinese common market. He delivered on this pledge in 2010 by signing with Beijing the Economic Cooperation Framework Agreement (ECFA), under which the two sides agreed to slash tariffs on a wide variety of goods and services. By December 2011, 16.1 percent of Taiwanese goods exported to China and 10.5 percent of Chinese goods exported to Taiwan were already tariffed at preferential rates. Important services were also covered under ECFA's "early harvest" provisions.

No escalation – disagreements remain limited

Weitz 11 (Richard, senior fellow at the Hudson Institute and a World Politics Review senior editor 9/27/2011, “Global Insights: Putin not a Game-Changer for U.S.-Russia Ties,” <http://www.scribd.com/doc/66579517/Global-Insights-Putin-not-a-Game-Changer-for-U-S-Russia-Ties>)

Fifth, there will inevitably be areas of conflict between Russia and the United States regardless of who is in the Kremlin. Putin and his entourage can never be happy with having NATO be Europe's most powerful security institution, since Moscow is not a member and cannot become one. Similarly, the Russians will always object to NATO's missile defense efforts since they can neither match them nor join them in any meaningful way. In the case of Iran, Russian officials genuinely perceive less of a threat from Tehran than do most Americans, and Russia has more to lose from a cessation of economic ties with Iran -- as well as from an Iranian-Western reconciliation. On the other hand, these conflicts can be managed, since they will likely **remain limited and compartmentalized**. Russia and the West **do not have fundamentally conflicting vital interests of the kind countries would go to war over**. And as the Cold War demonstrated, nuclear weapons are a great pacifier under such conditions. Another novel development is that Russia is much more integrated into the international economy and global society than the Soviet Union was, and Putin's popularity depends heavily on his economic track record. Beyond that, there are objective criteria, such as the smaller size of the Russian population and economy as well as the difficulty of controlling modern means of social communication, that will constrain whoever is in charge of Russia.

## 2NC

### Voluntarily Consult Congress

#### Voluntary consultation of Congress prevents Presidential overreach without sacrificing his authority – the CP maintains essential War Power flexibility – (existing statutory restrictions are adequate)

Lederman, law professor at Georgetown, former Deputy Assistant Attorney General, 9/1/2013

(Marty, “Syria Insta-Symposium: Marty Lederman Part I–The Constitution, the Charter, and Their Intersection,” http://opiniojuris.org/2013/09/01/syria-insta-symposium-marty-lederman-part-constitution-charter-intersection/)

In the past two generations, there have been three principal schools of thought on the question of the President’s power to initiate the use of force unilaterally, i.e., without congressional authorization:

a. The traditional view, perhaps best articulated in Chapter One of John Hart Ely’s War and Responsibility, is that except in a small category of cases where the President does not have time to wait for Congress before acting to interdict an attack on the United States, the President must always obtain ex ante congressional authorization, for any use of military force abroad. That view has numerous adherents, and a rich historical pedigree. But whatever its merits, it has not carried the day for many decades in terms of U.S. practice.

b. At the other extreme is the view articulated at pages 7-9 of the October 2003 OLC opinion on war in Iraq, signed by Jay Bybee (which was based upon earlier memos written by his Deputy, John Yoo). The Bybee/Yoo position is that there are virtually no limits whatsoever: The President can take the Nation into full-fledged, extended war without congressional approval, as President Truman did in Korea, as long as he does so in order to advance the “national security interests of the United States.” With the possible exception of Korea itself, this theory has never reflected U.S. practice. (Indeed, even before that OLC opinion was issued, President Bush sought and obtained congressional authorization for the war in Iraq.) Notably, it was even rejected by William Rehnquist when he was head of OLC in 1970 (see the opinion beginning at page 321 here).

c. Between these two categorical views is what I like to call the Clinton/Obama “third way”—a theory that has in effect governed, or at least described, U.S. practice for the past several decades. It is best articulated in Walter Dellinger’s OLC opinions on Haiti and Bosnia, and in Caroline Krass’s 2011 OLC opinion on Libya. The gist of this middle-ground view (this is my characterization of it) is that the President can act unilaterally if two conditions are met: (i) the use of force must serve significant national interests that have historically supported such unilateral actions—of which self-defense and protection of U.S. nationals have been the most commonly invoked; and (ii) the operation cannot be anticipated to be “sufficiently extensive in ‘nature, scope, and duration’ to constitute a ‘war’ requiring prior specific congressional approval under the Declaration of War Clause,” a standard that generally will be satisfied “only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period” (quoting from the Libya opinion).

Largely for reasons explained by my colleague and Dean, Bill Treanor, I am partial to this “third way,” at least in contrast to the two more categorical views described above. (I do not subscribe to every detail of the Dellinger and Krass opinions—in particular, I’m wary of resort to the interest in “regional stability,” which has never been used as a stand-alone justification for unilateral executive action—but I concur in the broad outlines sketched out above.) Regardless of whether Dean Treanor and I—and Presidents Clinton and Obama—are right or wrong about that, however, what’s important for present purposes is that U.S. practice after World War II (with the possible exception of Korea and Kosovo) reflects, and is consistent with, this “third way” view: When a prolonged campaign has been anticipated, with great risk to U.S. blood and treasure, congressional authorization has been necessary—and has, in fact been secured (think Vietnam, both Gulf Wars, and the conflict with al Qaeda). Otherwise, the President has considered himself free to act unilaterally, in support of important interests that have historically justified such unilateral action—subject, however, to any statutory limitations, including the time limits imposed by the War Powers Resolution. See, e.g., Libya (twice, 1986 and 2011), Panama (1989), Somalia (1992), Haiti (twice, 1994 and 2004), and Bosnia (1995).

Assuming this “third way” view is correct—or, in any event, that it establishes the relevant historical baseline against which to measure the case of Syria—Peter Spiro makes a valid point about the second of the two criteria. As he puts it, “[a]t no point in the last half century . . . has a president requested advance congressional authorization for anything less than the full-scale use of force.”

But that does not mean that the President’s turn to Congress yesterday is a “watershed,” for Peter overlooks the important first condition. All of the examples of unilateral presidential use of force since 1986 that he implicitly invokes (with the possible exception of Kosovo, discussed below) have been in the service of significant national interests that have historically supported such unilateral actions—such as self-defense, protection of U.S. nationals, and/or support of U.N. peacekeeping or other Security Council-approved endeavors and mandates (e.g., Bosnia and Libya).

The Syria operation, however, would have had no significant precedent in unilateral executive practice; it would not have been been supported by one of those historically sufficient national interests. That’s not to say that that operation would not be in the service of a very important national interest. For almost a century the U.S. has worked assiduously, with many other nations, to eliminate the scourge of chemical weapons. If Syria’s use of such weapons were to remain unaddressed, that might seriously compromise the international community’s hard-won success in establishing the norm that such weapons are categorically forbidden, and should not even be contemplated as instruments of war. As Max Fisher has written, “it’s about every war that comes after, about what kind of warfare the world is willing to allow, about preserving the small but crucial gains we’ve made over the last century in constraining warfare in its most terrible forms.”

Preventing that degradation of the strong international norm against use of chemical weapons is, indeed, an important national (and international) interest of the first order. (To be clear: I am not remotely qualified to opine on whether and to what extent the contemplated action would advance that interest—my point is only that the interest is undoubtedly an important one.) And perhaps that should be enough to justify discrete, unilateral presidential action short of “war in the constitutional sense.” But if so, it would nevertheless be an unprecedented basis for unilateral executive action, and it would open up a whole new category of uses of force that Presidents might order without congressional approval, even where such actions could have profound, longstanding consequences: Most obviously, think, for example, of possible strikes on Iran in order to degrade its nuclear capabilities. Is Peter so sure that that’s the sort of thing that a President should be able to do without obtaining congressional approval? At a minimum, it’s a profound, and heretofore unresolved, question, one that any President should be wary of raising.

But there’s yet another reason why unilateral action in Syria would have been especially troubling—a reason that hasn’t received the attention it warrants in recent days. As I discuss in my next post, I agree with the majority of OJ commentators that the Syrian operation would violate Article 2(4) of the U.N. Charter. Indeed, it’s not really a close question. But this is not merely a point about international law. The Charter is a treaty of the United States. It is therefore the “supreme Law” of the land under Article VI of the Constitution, and the President has a constitutional obligation (under Article II) to take care that it is faithfully executed. Unless and until Congress passes a “later in time” statute, under what authority can the President deliberately put the U.S. in breach of the Charter? That is to say: Whatever one’s views might be on the scope of the President’s authority to unilaterally use force abroad—whether you subscribe to the traditional view, the Bybee/Yoo view, or the Clinton/Obama “third way” (or any variant in between)—what is the possible justification for a unilateral presidential decision to violate a treaty that is binding as a matter of domestic law?

This is, I think, the most troubling thing about the 1999 Kosovo precedent. The Clinton Administration virtually conceded that the operation was in breach of the Charter. Of course, as a matter of domestic law, Congress can pass a statute authorizing violation of the Nation’s treaty obligation. And OLC concluded that Congress effectively authorized the Kosovo operation eight weeks after it began. But why did President Clinton have the authority, without congressional authorization, to order the operation, and to breach Article 2(4), during those first eight weeks? The notion that the President may unilaterally cause the U.S. to breach a treaty raises deep and unresolved questions of constitutional law: Just as Presidents Obama and Clinton were correct to assume that their unilateral uses of force (in Kosovo and Libya, respectively) were subject to the constraints of the War Powers Resolution, so, too, should the President act within the constraints of binding treaty obligations. The Clinton Administration never did address this problem in connection with Kosovo. (I should note that in 1989, OLC reasoned that because Article 2(4) of the Charter is non-self-executing, in the sense that it does not establish a rule for court adjudication, it is “not legally binding on the political branches,” and thus “as a matter of domestic law, the Executive has the power to authorize actions inconsistent with Article 2(4) of the U.N. Charter.” 13 Op. O.L.C. 163, 179. In my view, this understanding of the effect of a “non-self-executing” treaty is importantly mistaken—but that’s a much broader topic, for another day. I am not aware of any indication that the Clinton Administration adopted this position.)

For these reasons, I think that President Obama’s decision to ask Congress for authorization for the use of force in Syria is to be commended, and welcomed. Moreover, I agree with Jack Goldsmith that this decision will not result in any “surrender” of existing executive authority: When in the future the two “third way” criteria for unilateral action articulated in the Haiti, Bosnia and Libya OLC opinions are satisfied, and where the use of force does not violate the Charter, Presidents will certainly continue to assert the power to act unilaterally, subject to statutory and international law constraints. But if and when a President wishes to act for a reason that has not previously been the basis for unilateral action (such as to degrade another nation’s ability to use certain weapons), and/or in a manner that violates a U.S. treaty obligation, past practice will support obtaining congressional authorization, even as the question of the President’s unilateral authority in such circumstances remains untested and unresolved.

#### The President can wait on Congress voluntarily without sacrificing war powers

Tampa Bay Tribune 2011

(http://www.politifact.com/truth-o-meter/statements/2011/apr/05/charles-rangel/charlie-rangel-says-last-president-seek-congressio/)

• Each president has been careful about the phrasing of his request to Congress. Even as presidents ask for Congress’ support -- something seen as politically useful, even necessary -- they always take pains to note that they are doing so voluntarily, without ceding any presidential prerogatives. So when Rangel says that "Franklin Roosevelt (was) the last president to come to the Congress to ask for permission" to go to war, he has a point. No president since Roosevelt has come to seek "permission" from Congress for military action. However, presidents have repeatedly come to Congress to seek "support" for military action.

• What is the definition of "war"? Of the seven post-War Powers Resolution examples listed above, one came at the end of a genuine war (the fall of Saigon) and three involved more limited peacekeeping or humanitarian missions (Sinai, Lebanon and Somalia). None of these would be solid examples of a president seeking congressional backing to engage in "war" by its strictest definition.

However, we think most people would consider the other three cases -- the Persian Gulf War, Afghanistan and Iraq -- genuine wars. And in each of those cases, the president sought congressional support (reluctantly or otherwise) before initiating hostilities and ultimately received it (with varying degrees of unanimity).

So where does this leave us? Rangel is right that Roosevelt is the last president, strictly speaking, "to come to the Congress to ask for permission to engage into war." But at least two presidents -- both George Bushes -- have waited to launch wars until they had an official vote from Congress backing them up. On balance, we rate Rangel’s statement Half True.

#### That sets a key precedent – respects Congress and trims back the Imperial Presidency

Shapiro, columnist for Yahoo and lecturer at Yale, 9/1/2013

(Walter, http://news.yahoo.com/obama-s-history-defying-decision-to-seek-congressional-approval-on-syria-143201825.html)

Virtually no one in politics, the press or the academic community expected Obama to go to Congress for approval. That isn’t the way the presidential power works in the modern era. It is a sad truth that whoever occupies the Oval Office invariably expands rather than trims back the Imperial presidency. Obama himself has reflected this pattern with his aggressive enhancement of the National Security Agency’s efforts to monitor electronic communications.

For more than six decades, the war-making powers of Congress have been eviscerated by presidents of both parties.

Which brings us back to Truman, who in 1950 balked at asking a Congress weary after World War II for approval to militarily respond to the Communist attack on South Korea. Dean Acheson, Truman’s secretary of state, claimed in his memoirs that a congressional debate over the Korean War “would hardly be calculated to support the shaken morale of the troops or the unity that, for the moment, prevailed at home.”

Acheson may not have remembered that military morale and national unity are not mentioned in the Constitution. But the war-marking powers of Congress are at the heart of the nation’s founding document. It was as if the sign on Truman’s desk read, “The Buck Stops Here — And This Is Also Where the Constitution Is Twisted.”

The plain-spoken Truman resorted to weaselly words to claim that Korea was a United Nations-sponsored “police action” rather than a war. No other American “police action” has ever led to 54,246 wartime deaths.

Truman’s assertion of vast executive power as commander in chief set a template for future presidents. Even when presidents have gone to Congress for approval of major military engagements, these blank-check authorizations have often been based on deceptive arguments.

Lyndon Johnson premised the entire Vietnam War on the 1964 Gulf of Tonkin Resolution, which was designed to permit a limited response to two minor and maybe mythical naval skirmishes with North Vietnam. Similarly hyperbolic were George W. Bush’s claims about Saddam Hussein’s nonexistent arsenal of weapons of mass destruction.

Even more legally dubious were all the times a president sent troops and planes into combat without anything more than desultory briefings of the congressional leadership.

Ronald Reagan dispatched the Marines into Grenada in 1983 under the preposterous rationale that he was only protecting endangered American medical students. Bill Clinton skirted congressional approval for the 1999 airborne attacks to halt Serbia’s ethnic cleansing of Kosovo on the shaky grounds that this was a NATO operation. And Obama himself was even on flimsier footing when he justified America’s participation in the 2011 bombing campaign over Libya based on a United Nations resolution.

But Syria did not provide Obama with any of these fig-leaf justifications.

No American lives are in danger and the national security threat is hard to identify. Not only is NATO not participating, but also neither are the Brits, the United State’s closest diplomatic ally. With Russia serving as Assad’s enabler, there will be no Security Council resolution or U.N. mandate.

Every time a president employs questionable legal arguments to wage war, it becomes a valuable tool for the next commander in chief impatient with the constitutional requirement to work through Congress. That’s why it would have been so dangerous for Obama to go forward in Syria without a congressional vote or the support of the U.N. or NATO. It is as much of a slippery slope argument as the contention that Iran, say, would be emboldened with its nuclear program if America did not punish Assad’s chemical attacks.

Assuming Obama wins congressional approval, America’s coming attack on Syria is designed to set a lasting precedent: No government can ever again use chemical, biological — let alone nuclear — weapons without facing devastating consequences. As Obama asked rhetorically in his Saturday Rose Garden statement, “What message will we send if a dictator can gas hundreds of children to death in plain sight and pay no price?”

But Obama’s decision to seek congressional approval may prove to be an even more important precedent. Future presidents — as they consider unilateral military action without American security hanging in the balance — will have to answer, “Why didn’t you go to Congress like Obama did over Syria?”

Confronted with a series of wrenching choices over Syria, Obama chose the course that best reflects fidelity to the Constitution as written. Hopefully, in the days ahead, taking that less traveled road by presidents will make all the difference.

### --- Durable Fiat / AT: Rollback

#### And executive orders have the force of law:

Oxford Dictionary of English 2010

(Oxford Reference, Georgetown Library)

executive order

▶ noun US (Law) a rule or order issued by the President to an executive branch of the government and having the force of law.

#### Executive orders are permanent

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

The trajectory of the evolution of the executive power in the United States, as seen through the prism of the growing edifice of executive orders have become increasingly formal and permanent. The evolution of executive power in the United States has shifted executive orders from mere legislative interpretation to ancillary legislation. **Executive orders continue to influence subsequent presidents**. The elaboration of executive order promulgation, as an autopoietic process was necessary to the very existence of presidential power. That is, the mechanisms for formalizing executive orders have always existed in the executive power in a government whose legitimacy lives in written pronouncements treated as delicate, sacred, and worth protecting at all cost. **Part of this formalization is** a consequence of **the reverence for precedent**. Thus, **prior presidents influence future presidents**, less because future presidents wish to mimic their predecessors, but more **because future presidents act within an edifice their predecessors have already erected**. Thus, the growth and elaboration of an ever more robust structure of executive orders resembles an autopoietic process. n561

#### CP constrains future Presidents – it creates a legal framework

Brecher, JD University of Michigan, December 2012

(Aaron, Cyberattacks and the Covert Action Statute, 111 Mich. L. Rev. 423, Lexis)

The executive might also issue the proposed order, even though it would limit her freedom in some ways, because of the possible benefits of **constraining future administrations** or preempting legislative intervention. n149 For example, in this context, an administration may choose to follow the finding and reporting requirements in order to convince Congress that legislative intervention is unnecessary for proper oversight. This is acceptable if the covert action regime is in fact adequate on its own. Moreover, if greater statutory control over cyberattacks is needed, the information shared with Congress may give Congress the tools and knowledge of the issue necessary to craft related legislation. n150 Additionally, while executive orders are hardly binding, **the inertia following adoption of an order may help constrain future administrations**, which may be more or less trustworthy than the current one. **Creating a presumption through an executive order** also **establishes a stable legal framework** for cyberattacks that allows law to follow policy in this new field, and permits decisionmakers to learn more about the nature of cyberoperations before passing detailed statutes that may result in unintended consequences.

#### Executive order binds future administrations

Jensen, JD Drake University, Summer 2012

(Jase, FIRST AMERICANS AND THE FEDERAL GOVERNMENT, 17 Drake J. Agric. L. 473, Lexis)

At the historic 1994 meeting with the tribes, President Clinton signed a Presidential memorandum which provided executive departments and agencies with principles to guide interaction with and policy concerning Indian tribes. n83 President Clinton sought to ensure that the government recognizes that it operates on a government-to-government relationship with the federally recognized tribes. n84 Agencies were to consult with tribes prior to taking action which would affect them, consider tribal impact regarding current programs and policies, and remove barriers to communication. n85

Toward the end of Clinton's second term he issued an executive order which provided the executive branch with more detailed directions on how to implement the broader policy of government-to-government tribal consultation set forth in the 1994 memorandum. n86 **The order had a stronger binding effect on future administrations**. President Clinton signed Executive Order 13175 on November 6, 2000, and the order went into effect on January 5, 2001. n87 The order was binding upon all executive departments and executive agencies and all independent agencies were encouraged to comply with the order on a voluntary basis. n88 Each agency was required to designate an official which is to head the crea [\*486] tion of a tribal consultation plan, prepare progress reports, and ensure compliance with Executive Order 13175. n89

### Congress Follow-on – 2NC

#### Creates a precedent for future administrations and leads to Congressional follow-on

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

**Executive orders** can serve the purpose of allowing the President to generate favorable publicity, such as when President Clinton signed an executive order on ethics, n493 and when President George W. Bush signed the first of a series of executive orders to launch his Faith-Based and Community Initiatives. n494 While these orders pay off political debts and thus may seem trivial, they nevertheless **create both infrastructural and regulatory precedents for future administrations**. Hence, they create an avenue for key constituencies of each administration to influence the executive structure as a whole without necessarily permitting that influence to extend to arenas of reserved for Congress. That is, while the President can act more swiftly and precisely to satisfy political commitments, the impact of his action will fall considerably short of analogous congressional action. This in turn serves to satisfy selected constituencies without giving them undue power via the presidency.

Executive orders have even served to create presidential commissions to investigate and research problems, and have been instrumental in solving remedial issues. n495 **Commission reports** that result from such orders can in [\*398] turn **put pressure on Congress to** enact legislation to respond to those problems. President Franklin Roosevelt pursued this process when he issued a report of the Committee on Economic Security studying financial insecurity due to "unemployment, old age, disability, and health." n496 This report led to the Social Security Act. n497

### Effective Constraint – 2NC

#### Self-restraint solves the case without altering executive legal authority

Nathan Alexander Sales, Assistant Professor of Law, George Mason University School of Law, 8/29/2012, Self-Restraint and National Security, http://jnslp.com/2012/08/29/self-restraint-and-national-security/

As we’ve seen, certain officials within military and intelligence agencies – general counsels, legal advisors, and other watchdogs – are responsible for ensuring that national security operations comply with the relevant domestic and international legal requirements. These players intervene to rule out missions they believe would cross a legal line. But sometimes they go beyond that basic function – ensure compliance with the law, full stop – and reject operations that, while lawful, are thought to be undesirable on policy grounds. That is, they impose self-restraints that are stricter than the applicable laws. Why?

One way to answer that question is to consider the individual and institutional incentives that color the behavior of military and intelligence officials. Looking at the government’s national security apparatus through the lens of public choice theory (especially the idea that bureaucrats are rationally self interested actors who seek to maximize their utility152) and basic agency relationships (e.g., the relationships between senior policymakers and the subordinates who act on their behalf153) reveals a complex system in which power is distributed among a number of different nodes. The executive branch “is a ‘they,’ not an ‘it.’”154 The national security community in particular is subdivided into various semiautonomous entities, each of which promotes its own parochial interests within the system and, in so doing, checks the like ambitions of rival entities;155 the government thus is subject to what Neal Katyal has called the “internal separation of powers.”156 These basic insights into how military and intelligence agencies operate suggest several possible explanations for why self-restraint occurs. As elaborated in this Part, such constraints might result from systematic asymmetries in the expected value calculations of senior policymakers and their lawyers. In addition, as explained in Part IV, self-restraint might occur due to bureaucratic empire building by officials who review operations for compliance with domestic and international law.

A. A Simple Framework

One possible explanation for why the government stays its own hand is expected value asymmetry. This reluctance to push the envelope is a rational and predictable response to powerful bureaucratic incentives. Officials tend to be cautious because the costs they expect to incur as a result of forward-leaning and aggressive action usually are greater than the expected benefits. Similarly, government employment rules and other mechanisms make it easier to internalize onto individual bureaucrats the costs of a failed operation than the benefits of a successful one.157 National security players typically have more to lose from boldness than to gain, and that asymmetry inclines them to avoid risky behavior.158 While all members of the national security community experience some cost-benefit asymmetry, senior policymakers and their lawyers seem especially cautious. Attorneys who review proposed operations for legality therefore look askance at risky missions. They tend to veto proposals that, while legal, could inspire propaganda campaigns by adversaries, expose officials to ruinous investigations, or worse. The result is self-restraint – officials rule out operations that they regard as lawful because of fears they will prove too costly.

#### CP mechanism establishes a reputational cost to backsliding—that is comparatively more effective than the plan

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

As we noted earlier, legal scholars rarely note the problem of executive credibility, preferring to dwell on the problem of aggrandizement by ill-motivated presidents. Ironically, this assumption that presidents seek to maximize power has obscured one of the greatest constraints on aggrandizement, namely, the president's own interest in maintaining his credibility. Neither a well-motivated nor an ill-motivated president can accomplish his goals if the public does not trust him. n34 This concern with reputation may **put a** far greater check **on the president's actions than** do the **reactions of the other branches of the government.**

### AT: Object Fiat

#### Internal constraints are key neg ground – it matches the academic debate

Sinnar, assistant professor of law at Stanford Law School, May 2013

(Shirin, “Protecting Rights from Within? Inspectors General and National Security Oversight,” 65 Stan. L. Rev. 1027, Lexis)

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1

These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

### at: sop—XO cp solves

Their Sloane evidence is CP sufficiency evidence—(and its about preventive vs. preemptive war, not the aff…\_)

Sloane 8 – Sloane, Associate Professor of Law, Boston University School of Law, 2008 (Robert, Boston University Law Review, April, 88 B.U.L. Rev. 341, Lexis)

There is a great deal more constitutional history that arguably bears on the scope of the executive power in the twenty-first century. But it is vital to appreciate that the scope of the executive power, particularly in the twenty-first century, is not only a constitutional or historical issue. As an international lawyer rather than a constitutionalist, I want to stress briefly that these debates and their concrete manifestations in U.S. law and policy potentially **exert a profound effect on the shape of international law**. Justice Sutherland’s sweeping dicta in United States v. Curtiss-Wright Export Corp., that the President enjoys a “very delicate, plenary and exclusive power . . . as the sole organ of the federal government in the field of international relations – a power which does not require as a basis for its exercise an act of Congress,”52 has been (correctly, in my view) criticized on a host of grounds.53 But in practice, in part for institutional and structural reasons,54 it **accurately reflects the general preeminence of the President in the realm of U.S. foreign affairs**. Because of the nature of the international legal and political system, what U.S. Presidents do and say often establish precedents that strongly influence what other states do and say **– with potentially dramatic consequences for the shape of customary international law.** The paradigmatic example is the establishment of customary international law on the continental shelf following the Truman Proclamation of September 28, 1945,55 which produced an echo of similar claims and counterclaims, culminating in a whole new corpus of the international law of the sea for what had previously been understood only as a geological term of art.56 Many states took note, for example, when in the 2002 National Security Strategy of the United States (“NSS”), President Bush asserted that the United States had the right under international law to engage in **preventive wars of self-defense.**57 While, contrary to popular belief, the United States **never** in fact **formally relied on that doctrine in practice,** many would argue that President Bush de facto exercised this purported right when he initiated an armed conflict with Iraq based on claims, which have since proved unfounded, about its incipient programs to develop catastrophic weapons. The 2006 NSS notably retreats from the 2002 NSS’s robust claims of a right to engage in preventive wars of self-defense.58 Yet **even within this brief, four-year period, an astonishing number of other states have asserted a comparable right to engage in preventive self-defense. These include** not only states that the United States has described as “rogue states,” such as **North Korea** and **Iran**, but **Australia, Japan, the United Kingdom, China, India, Iran, Israel, Russia, and** (though technically not a state) **Taiwan**.59 **I doubt we will welcome the consequences of this pattern for the evolving jus ad bellum of the twenty-first century**. Equally, after President Bush’s decision to declare a global war on terror or terrorism – rather than, for example, the Taliban, al-Qaeda, and their immediate allies – virtually every insurgency or disaffected minority around the world, including peoples suffering under repressive regimes and seeking to assert legitimate rights to liberty and self-determination, has been recharacterized by opportunistic state elites as part of the enemy in this global war.60 **The techniques employed and justified by the United States**, including the resurrection of rationalized torture as an “enhanced interrogation technique,”61 likewise **have emerged – and will continue to emerge – in the practice of other states. Because of customary international law’s acute sensitivity to authoritative assertions of power, the widespread repetition of claims and practices initiated by the U.S. executive may well shape international law in ways the United States ultimately finds disagreeable in the future**. So as we debate the scope of the executive power in the twenty-first century, the stakes, as several panelists point out, could not be higher. They include more than national issues such as the potential for executive branch officials to be prosecuted or impeached for exceeding the legal scope of their authority or violating valid statutes.62 **They** also **include international issues like the potential use of catastrophic weapons by a rogue regime asserting a right to engage in** preventive war**; the deterioration of international human rights norms** against practices like torture, norms **which took years to establish; and the atrophy of genuine U.S. power in the international arena, which**, as diplomats, statesmen, and international relations theorists of all political persuasions appreciate, **demands far more than the largest and most technologically advanced military arsenal**. In short, **what Presidents do, internationally as well as domestically –** the precedents they establish– may **affect not only the technical scope of the executive power, as a matter of constitutional law, but the practical ability of future Presidents to exercise that power both at home and abroad**. We should candidly debate whether terrorism or other perceived crises require an expanded scope of executive power in the twenty-first century. But it is dangerous to cloak the true stakes of that debate with the expedient of a new – and, in the view of most, indefensible – “monarchical executive” theory, which claims to be coextensive with the defensible, if controversial, original Unitary Executive theory.63 We should also weigh the costs and benefits of an expanded scope of executive power. But it is vital to appreciate that there are costs. They include not only short-term, acute consequences but long-term, systemic consequences that may not become fully apparent for years. In fact, the exorbitant exercise of broad, supposedly inherent, executive powers may well – as in the aftermath of the Nixon administration – culminate in precisely the sort of reactive statutory constraints and de facto diplomatic obstacles that proponents of a robust executive regard as misguided and a threat to U.S. national security in the twenty-first century.

### Signal – 2NC

#### CP sends the most powerful signal (while avoiding Congressional confrontation)

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, www.foreignpolicy.com/articles/2012/12/03/obamas\_moment

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -- for better or for worse -- as the authentic voice of America.

To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when he speaks and then decisively acts for America.

This is true even in the face of determined opposition. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

#### Self-restraint changes perception

Savage, writer for the New York Times, 9/8/2013

(Charlie, “Obama Tests Limits of Power in Syrian Conflict,” http://www.nytimes.com/2013/09/09/world/middleeast/obama-tests-limits-of-power-in-syrian-conflict.html?pagewanted=all)

Disputes about whether and when a president or nation may launch an act of war can be hazy because courts generally do not issue definitive answers about such matters. Instead presidents, and countries, create precedents that over time can become generally accepted as a gloss on what written domestic laws and international treaties permit. Against that backdrop, many legal scholars say Mr. Obama is proposing to violate international law. But others contend that the question is ambiguous, and some suggest that the United States could establish a precedent creating new international law if it strikes.

### AT: Perm Do CP

#### Authority is power vested in an agent by a principal

Oxford Dictionary of Law 2009

(“Authority,” Oxford University Press via Oxford Reference, Georgetown University Library)

authority

n.

1 Power delegated to a person or body to act in a particular way. The person in whom authority is vested is usually called an agent and the person conferring the authority is the principal.

#### Changing authority requires the principal – the agent only operates within the powers it has been given

Hohfeld, Yale Law, 1919

(Wesley, http://www.hku.hk/philodep/courses/law/HohfeldRights.htm)

Many examples of legal powers may readily be given. Thus, X, the owner of ordinary personal property "in a tangible object" has the power to extinguish his own legal interest (rights, powers, immunities, etc.) through that totality of operative facts known as abandonment; and-simultaneously and correlatively-to create in other persons privileges and powers relating to the abandoned object,-e. g., the power to acquire title to the latter by appropriating it. Similarly, X has the power to transfer his interest to Y, that is to extinguish his own interest and concomitantly create in Y a new and corresponding interest. So also X has the power to create contractual obligations of various kinds. Agency cases are likewise instructive. By the use of some metaphorical expression such as the Latin, qui facit per alium, facit per se\* the true nature of agency relations is only too frequently obscured. **The creation of an agency relation involves**, inter alia, **the grant of legal powers to the so-called agent**, and the creation of correlative liabilities in the principal. That is to say, one party, P, has the power to create agency powers in another party, A,-for example, the power to convey P's property, the power to impose (so called) contractual obligations on P, the power to discharge a debt owing to P, the power to "receive" title to property so that it shall vest in P, and so forth. In passing, it may be well to observe that **the term** "**authority**," so frequently used in agency cases, **is** very ambiguous and **slippery in its connotation**. **Properly employed** in the present connection, the word seems to be an abstract or qualitative term corresponding to the concrete "authorization," the latter consisting of a particular group of operative facts taking place between the principal and the agent. All too often, however, the term in question is so used as to blend and **confuse these operative facts with the powers and privileges thereby created in the agent**. A careful discrimination in these particulars would, it is submitted, go far toward clearing up certain problems in the law of agency.

### At multilat

Ev is about UN

Schiffer 9 – Adam Schiffer, Ph.D., Assistant Professor of Political Science at Texas Christian University, and Carrie Liu Currier, Ph.D., Assistant Professor of Political Science at Texas Christian University, “War Powers, International Alliances, the President, and Congress”, http://apcentral.collegeboard.com/apc/public/repository/US\_Gov\_Balance\_of\_Power\_SF.pdf

The president’s advantages over Congress in the foreign policy realm have consequences far beyond the intragovernmental struggle over power and accountability. In recent years, the use of military force by the United States to compel other countries to abide by international norms or laws has generated criticism from members of the global community. Specifically the fear is that U.S. foreign policy in the post–Cold War era has become the pursuit of a new world order that essentially reflects American hegemony. The “war on terror,” the Bush doctrine, and the war efforts in Afghanistan and Iraq have all showcased the commitment of the United States to unilateralism rather than coalition building, and raise concern about the powers of the American presidency. During the Cold War, the absence of multilateralism in U.S. foreign policy was not as problematic as it appears today. However, the strengthening of presidential authority under the second Bush administration has raised alarm in many countries around the world.

In the past, the bipolar nature of the international system and the lack of consensus found among the five permanent members of the United Nations Security Council decreased the likelihood the United States could draw on multilateral action to counter its adversaries. In contrast, the post–Cold War era is one where countries are expected to fully utilize institutions like the United Nations to garner international support and establish coalitions, rather than resorting to unilateralism. Thus, the international community has been critical of countries that appear to circumvent these norms when dealing with global conflicts in the contemporary period. To highlight some of the differences in the international community’s post–Cold War support for U.S. military action abroad, we briefly examine the cases of the Persian Gulf War (1991) and the war in Iraq (2003). Both cases effectively demonstrate how two presidents, George H. W. Bush and George W. Bush, utilized the spirit of the War Powers Resolution in consulting with Congress but then reveal how their use of presidential authority led to very disparate degrees of support from the international community.

These two examples of U.S. military action in the Middle East offer several useful bases for comparison. In both conflicts there were underlying interests in securing oil resources, a desire to remove Saddam Hussein from power, and a sense that Iraq was seeking regional hegemony and defying international law based on its invasion of Kuwait in 1990 and its continued development of a weapons of mass destruction program. The contrasting responses of President George H. W. Bush and his son George W. Bush, however, illustrate how much discretion is left to the president in the current practice of war powers. In the first Gulf War, President George H. W. Bush fully utilized the international structures in place by getting the UN Security Council to adopt Resolution 678 authorizing member states to use “all necessary means,” including military force, to drive Iraq out of Kuwait and comply with international law. In accordance with the War Powers Resolution the president reported to Congress on Iraq’s refusal to adhere to the Security Council resolution, and indicated he was prepared to craft a multilateral strategy to respond to the crisis. He did not march the troops north to Baghdad and overthrow Saddam Hussein at this time because he had neither the approval nor the support of the UN to take these initiatives at the time. The Iraq policy set forth by the Bush administration thus relied on the use of a multilateral coalition to generate a sense of domestic and international legitimacy to the military actions taken by the United States and its allies, and was acknowledged as within the acceptable parameters as determined by the global community.

In contrast, the 2003 war in Iraq did not gain the support of the UN Security Council and was largely a unilateral effort by President George W. Bush. This unilateralist strategy can be seen on two levels, in the sense that he did not consult with allies and that his actions were rather declaratory with minimum consultation with Congress (Dumbrell 2002, 284). Global leaders warned that preemptive war and “American-led military action was illegitimate, threatened the future of the United Nations, undermined international support for the ‘war on terrorism,’ and created new threats to international peace and security” (Dombrowski and Payne 2003, 395). The “coalition of the willing” that supported U.S. initiatives in Iraq was negligible in both size and relative power and was not an attempt at true multilateralism. UN Resolution 1441, indicating Iraq was in material breach with regard to its WMD program, had been carefully worded so as not to permit an American military operation to enforce Iraq’s compliance. Instead, the Security Council was only willing to reopen discussions of weapons inspections and engage in further fact-finding. The terrorism rhetoric used by the second Bush administration established the urgent need for a U.S. response, and further served the president’s unilateralist efforts by instilling a sense of danger in waiting for other actors to give legitimacy to the U.S.-led war.

The battle between the unilateralists and multilateralists with regard to U.S. foreign policy raises concerns about presidents whose actions promote American exceptionalism. The idea that the United States operates with an authority above supranational institutions like the UN gives the impression that the country and the president have the ability to engage in reckless foreign policy behavior with few repercussions. The post–Cold War increase in UN action raises concerns about whether the War Powers Resolution should be amended to either facilitate or restrain the president’s ability to supply troops for UN missions without congressional approval (Grimmett 2004). Until then, the two cases of U.S. military action in the Middle East demonstrate important comparisons in how multilateralism and unilateralism are viewed by the global community and how they are used to establish the legitimacy of American foreign policy.

### 2nc ov

Executive weakness destroys credibility—causes wars everywhere

Howell ‘7

William, professor of political science at U-Chicago, and Jon C. Pevehouse, professor of Political Science UW-Madison, “While Dangers Gather : Congressional Checks on Presidential War Powers,” 2007 ed.

SIGNALING RESOLVE To the extent that congressional discontent signals domestic irresolution to other nations, the job of resolving a foreign crisis is made all the more difficult. As Kenneth Schultz shows, an ''opposition party can undermine the credibility of some challenges by publicly opposing them. Since this strategy threatens to increase the probability of resistance from the rival state, it forces the government to be more selective about making threats "—and, concomitantly, more cautious about actually using military force.'4 When members of Congress openly object to a planned military operation, would-be **adversaries** of the United States may feel emboldened, believing that the president lacks the domestic support required to see a military venture through. Such nations, it stands to reason, will be more willing to enter conflict, and if convinced that the United States will back down once the costs of conflict are revealed, they may fight longer and make fewer concessions. Domestic political strife, as it were, weakens the ability of presidents to bargain effectively with foreign states, while increasing the chances that military entanglements abroad will become **protracted and unwieldy.** A large body of work within the field of international relations supports the contention that a nation's ability to achieve strategic military objectives in short order depends, in part**,** on the head of state's **credibility in conveying political resolve.** Indeed, a substantial game theoretic literature underscores the importance of domestic political institutions and public opinion as state leaders attempt to credibly commit to war,75 Confronting widespread and vocal domestic opposition, the president may have a difficult time signaling his willingness to see a military campaign to its end, While congressional opposition may embolden foreign enemies, the perception on the part of allies that the president lacks support may make them wary of **committing any troops at all.**

Also causes rollback/circumvention

Laura Young, Ph.D., Purdue University Associate Fellow, June 2013, Unilateral Presidential Policy Making and the Impact of Crises, Presidential Studies Quarterly, Volume 43, Issue 2

A president looks for chances to increase his power (Moe and Howell 1999). Windows of opportunity provide those occasions. These **openings create an environment where the president faces little backlash from Congress, the judicial branch, or even the public**. Though institutional and behavioral conditions matter, domestic and international crises play a pivotal role in aiding a president who wishes to increase his power (Howell and Kriner 2008, 475). These events overcome the obstacles faced by the institutional make-up of government. They also allow a president lacking in skill and will or popular support the opportunity to shape the policy formation process. In short, focusing events increase presidential unilateral power.

### 2nc at prolif D

Sufficient to cause extinction

Westberg 9

Gunnar Westberg, Sahlgren Academy of Medicine Professor Emeritus, International Physicians for the Prevention of Nuclear War Former President, 2009,”Conference on an Arctic NWFZ,” <http://www.lulu.com/product/download/conference-on-an-arctic-nwfz/5510230>

Today the risk of a “smaller” nuclear war increases because of the proliferation of nuclear weapons. The presence of nuclear weapons in the Arctic region would increase the risk of such a limited nuclear conflict. In my presentation I will show that even such a “small” nuclear war would produce severe global environmental consequences. As an example of such a limited conflict I will describe the climate effect of nuclear war between India and Pakistan. In the 1980-ies the concept of nuclear winter was brought into our discussions. It was shown that a large nuclear war in which a major part of the nuclear arsenal was used would result in a drop in global temperatures of 7-10 degrees Celsius for several years. Most of those who survived the war, anywhere on the globe, would die from starvation. That means that if a state “won” the war through a devastating first strike, the population of that state would also succumb. Victory would mean suicide. In the last 25 years the nuclear arsenals have been much decreased. It has been argued that because of this decreased number of nuclear charges a nuclear winter would no longer be a consequence of a nuclear war. However, recent studies have shown the opposite. Observations after large forest fires show that the nuclear darkness would last longer than we previously thought. In a large fire a dark cloud of soot rises rapidly up to about 10 km altitude. The news is that it does not stay there. The cloud is heated by the sun and then rises up to the stratosphere. As very little material from the stratosphere rains down, the soot stays there and is distributed around the globe in a year or two. The increased darkness of the stratosphere clouds will remain for many years 1 . Extensive calculations using big computers and three-dimensional models of the atmosphere have been used to predict the development. Thus a large nuclear war between Russia and the US, when many of the nuclear weapons are brought to explode over populations centers, is expected to release 150 Tg of soot

(teragrams, one Tg equals one million metric tons). Most of that material will end up in the stratosphere. The result would be a drop in global temperatures of 7-10 degrees Celsius over 5-10 years. A more limited exchange, using mainly the nuclear weapon carried on intercontinental missiles, of which some will not target areas close to large cities, might result in a release of 50 Tg of soot, resulting in a drop in global average temperature of around 4 degrees Celsius (Fig.1). In both these scenarios we can expect that the global consequences will be devastating. Even the “victorious” country most if not all people will succumb to the secondary consequences of the nuclear war - radiation, famine, epidemics, social disintegration, and despair. Global climate consequences of a regional nuclear war A certain number of small weapons will have much greater consequences, both in the number of people killed from the explosions and in the amount of soot produced, than a smaller number of larger bombs with the same total explosive force2 . The new insights into the circulation of the atmosphere have also shown that a limited nuclear war, such a war between India and Pakistan when about 100 Hiroshima-size, 15 kt bombs are used, mostly over population centers, would result in the release of about 5 Tg of soot.. This soot, mostly from burning cities, would decrease the global temperature by about 1.25 degrees C, over 6-8 years. That is not nuclear winter, but the nuclear darkness will cause a deeper drop in temperature than at any time during the last 1000 years. The temperature over the continents would decrease substantially more than the global average. A decrease in rainfall over the continents would also follow. (Fig.2, 3) The growing season would be shortened by 10 to 20 days in many of the most important grain producing areas in the world which might completely eliminate some crops that have insufficient time to reach maturity. (Fig.4). An accurate evaluation of the global decrease in food production has yet to be done, but there will be substantial deficits3 . In earlier periods we have seen that a global decrease in grain production of 5% over a couple of years will bring about a sharp increase in prices and a starvation will increase in countries that normally are dependent on the import of food. The period of nuclear darkness will cause much greater decrease in grain production than 5%, and it will continue over many years. The reserves of the most important grains in the world have in recent years been less than corresponding to six weeks of consumption4 . There are currently more than 800 million people in the world who are chronically malnourished. Several hundred million more live in countries which are dependent on imported grain for their survival. In a situation of severe food shortage globally, can we expect that the wealthy countries will accept to tighten their belts to such an extent that the poor and undernourished survive these seven years of famine? If not, hundreds of millions of people in many continents, in particular Africa, will die from hunger5 . In the war zone, India and Pakistan, it can be expected that 20 million people will die from blast and fire, millions more from the radioactive fallout. Many tens of millions will flee the contaminated areas. and many will die from epidemics and hunger, maybe more than from the bombs. But the greatest number of fatalities will occur in countries far away, who will succumb from starvation because of the global nuclear darkness 6 . Severe ozone depletion To make matters even worse, such amounts of smoke injected into the stratosphere would cause a huge reduction in the Earth’s protective ozone (Mills et al 2008). A study published two years ago by the National Academy of Sciences, using a similar nuclear war scenario involving 100 Hiroshima-size bombs, shows ozone losses in excess of 20% globally, 25-45% at mid latitudes, and 50-70% at northern high latitudes persisting for five years, with substantial losses continuing for five additional years (Fig.5). The resulting increases in UV radiation would have serious consequences for human health. Here in Copenhagen we would be advised not to be outdoors for several hours around the middle of the day. The effects on the agriculture, on animals, on economy and on the human population from this unprecedented increase in ultraviolet radiation have not yet been evaluated. The effects would undoubtedly be serious. A regional nuclear war would result in an unprecedented global catastrophe. I have decided to present this material at this conference because it shows the global consequences of any nuclear war, even a war in which less than one half on one percent of the nuclear weapons are used. Nuclear proliferation is a threat to all of us. Nuclear weapons in the Arctic zone would increase the danger of a nuclear confrontation. And most importantly, it is not sufficient to decrease the number of nuclear weapons to a few hundred. They must be abolished.

### 2nc speed/flex key

Key to winning all future conflicts

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

The U.S. Army War College uses the acronym “VUCA” to describe the volatile, uncertain, chaotic and ambiguous environment in which strategy is made.4 If the present is any indication of the future, then it is reasonable to assume that the world will become increasingly dangerous as long as that strategic environment exists. Many long-range assessments predict that global tensions will continue to rise as resources become even more constrained and as transnational threats endanger international security. 5 Future leaders and planners can expect to see weak and failed states persisting to dominate U.S. foreign policy agendas. Terrorism will remain a vital interest, and the use of American military strength will remain focused on the dissuasion, deterrence, and, where necessary, the preemption of strategic conflict. Enemies will work aggressively to offset U.S. military superiority by seeking out technologies that will offer some level of asymmetric advantage, and the challenging asymmetric nature of future conflicts will add deeper complexity to both war planning and the development of national security strategy. 6 The “National Defense Strategy of the United States,” published in March 2005, addressed the unconventional nature of the future. It argued that enemies are increasingly likely to pose asymmetric threats resulting in irregular, catastrophic and disruptive challenges.7 This means that, in some cases, non-state actors will choose to attack the United States using forms of irregular warfare that may include the use of weapons of mass destruction. These actors may also seek new and innovative ways to negate traditional U.S. strengths to their advantage.8 In fact, one author theorizes that “speed of light engagements” will be the norm by the year 2025, and America may lose its monopoly on technological advances as hostile nations close the gap between technological “haves” and “have nots.”9 This type of warfare lends itself to engagements of varying speed and temporal geometry. 10 Therefore, in conflicts of the future, time and speed will matter. Consequently, it is necessary to analyze these elements with rigor and discipline in order to understand their far-reaching implications.

Key to victory in every domain

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

Military services appear to be increasingly dependent on speed, and these organizations continue to place a premium on its relative value. The Army’s “Field Manual 1: The Army,” embraces the idea that speed is critical to its operational concept, necessary for maneuver forces to keep the initiative in battle, and vital towards achieving shock and surprise.25 The United States Navy looks to speed as an essential component of maritime operations. In “Fleet Tactics and Costal Combat,” Wayne P. Hughes reasons that speed is necessary to win the sea battle **within the first few shots of an engagement**.26 The United States Air Force has plans to increase the speed and fidelity of command, control, communications and computers, intelligence, surveillance and reconnaissance (C4ISR) to create Predictive Battlespace Awareness over the combat area. The desired end state of these capabilities will be “getting a cursor over a target” upon demand.27 Even U.S. Air Force doctrine is replete with references to speed. The concept of speed clearly underlies the tenets and principles of airpower as an enabling factor.28

Solves prolif and regional crises

Bohnemann ‘2

Edward, Major, US Army, “Rapid, Decisive Operations: The Execution of Operational Art by a Standing Joint Task Force,” http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA403628%26Location=U2%26doc=GetTRDoc.pdf

Modern campaigns, such as OPERATION DESERT STORM conducted by the United States and its allies; nineteenth century campaigns conducted by Napoleon in Europe; or the ancient campaigns conducted by the Romans or the Mongols have all sought to apply an asymmetrical advantage to the battlefield. The great captains have continuously struggled to find an advantage possessed by their forces and developed ways in which to leverage that advantage against an opponent. Lightning campaigns such as OPERATION DESERT STORM, were the result of the application of asymmetrical advantages such as: superior mobility, speed, intelligence, synchronization, and training of friendly forces. These advantages and superior technology shocked opponents and often led to the rapid conclusion of the conflict.81 As the United States enters the twenty-first century as the lone superpower, it must develop ways in which to harness the tremendous capabilities the joint forces bring to a confrontation and apply those joint capabilities in a manner consistent with the characteristics of operational art. The asymmetrical advantages currently enjoyed by the United States over potential adversaries must focus on placing him in a reactionary mode, while creating too many dilemmas for him to deal with at a particular time and space. September 11, 2001 significantly changed the way America views the world. With the attacks on the World Trade Centers and the Pentagon, the post-Cold War era ended violently and was replaced by an era of uncertainty. The forces of terror that had previously operated on distant shores now brought their violence home to Americans with the killing of innocent civilians within the borders of the United States. This single act of violence, along with the emergence of other regional powers and the proliferation of weapons of mass destruction has set the stage for the future operational environment; with it comes the military requirement to possess the capability to respond rapidly and decisively. With the need to respond rapidly and decisively to worldwide contingencies, the United States can no longer afford a system within the military that is essentially unprepared for action at the onset of each crisis. The ad hoc JTFs previously examined lacked the inherent capabilities demanded in modern crises, with rapidly unfolding situations, taking place in obscure areas around the world. All three of the examined JTFs lacked critical personnel needed to plan courses of action during the initial phases of the operation, causing problems during the execution phases. The one-dimensional approach to the crisis in Kosovo was reminiscent of the singular focus LANTCOM had before OPERATION URGENT FURY. Humanitarian aid operations, as well as other stability and support operations also require a **command** and control **system** in place to enable a rapid and effective response.

## 1NR

### sop

#### No war – deterrence checks escalation

Ganguly, 8

[Sumit Ganguly is a professor of political science and holds the Rabindranath Tagore Chair at Indiana University, Bloomington. “Nuclear Stability in South Asia,” International Security, Vol. 33, No. 2 (Fall 2008), pp. 45–70]

As the outcomes of the 1999 and 2001–02 crises show, nuclear deterrence is robust in South Asia. Both crises were contained at levels considerably short of full-scale war. That said, as Paul Kapur has argued, Pakistan’s acquisition of a nuclear weapons capability may well have emboldened its leadership, secure in the belief that India had no good options to respond. India, in turn, has been grappling with an effort to forge a new military doctrine and strategy to enable it to respond to Pakistani needling while containing the possibilities of conflict escalation, especially to the nuclear level.78 Whether Indian military planners can fashion such a calibrated strategy to cope with Pakistani probes remains an open question. This article’s analysis of the 1999 and 2001–02 crises does suggest, however, that nuclear deterrence in South Asia is far from parlous, contrary to what the critics have suggested. Three specific forms of evidence can be adduced to argue the case for the strength of nuclear deterrence. First, there is a serious problem of conflation in the arguments of both Hoyt and Kapur. Undeniably, Pakistan’s willingness to provoke India has increased commensurate with its steady acquisition of a nuclear arsenal. This period from the late 1980s to the late 1990s, however, also coincided with two parallel developments that equipped Pakistan with the motives, opportunities, and means to meddle in India’s internal affairs—particularly in Jammu and Kashmir. The most important change that occurred was the end of the conflict with the Soviet Union, which freed up military resources for use in a new jihad in Kashmir. This jihad, in turn, was made possible by the emergence of an indigenous uprising within the state as a result of Indian political malfeasance.79 Once the jihadis were organized, trained, armed, and unleashed, it is far from clear whether Pakistan could control the behavior and actions of every resulting jihadist organization.80 Consequently, although the number of attacks on India did multiply during the 1990s, it is difficult to establish a firm causal connection between the growth of Pakistani boldness and its gradual acquisition of a full-fledged nuclear weapons capability.

Second, India did respond with considerable force once its military planners realized the full scope and extent of the intrusions across the Line of Control. Despite the vigor of this response, India did exhibit restraint. For example, Indian pilots were under strict instructions not to cross the Line of Control in pursuit of their bombing objectives.81 They adhered to these guidelines even though they left them more vulnerable to Pakistani ground ªre.82 The Indian military exercised such restraint to avoid provoking Pakistani fears of a wider attack into Pakistan-controlled Kashmir and then into Pakistan itself. Indian restraint was also evident at another level. During the last war in Kashmir in 1965, within a week of its onset, the Indian Army horizontally escalated with an attack into Pakistani Punjab. In fact, in the Punjab, Indian forces successfully breached the international border and reached the outskirts of the regional capital, Lahore. The Indian military resorted to this strategy under conditions that were not especially propitious for the country. Prime Minister Jawaharlal Nehru, India’s first prime minister, had died in late 1964. His successor, Lal Bahadur Shastri, was a relatively unknown politician of uncertain stature and standing, and the Indian military was still recovering from the trauma of the 1962 border war with the People’s Republic of China.83 Finally, because of its role in the Cold War, the Pakistani military was armed with more sophisticated, U.S.-supplied weaponry, including the F-86 Sabre and the F-104 Starfighter aircraft. India, on the other hand, had few supersonic aircraft in its inventory, barring a small number of Soviet-supplied MiG-21s and the indigenously built HF-24.84 Furthermore, the Indian military remained concerned that China might open a second front along the Himalayan border. Such concerns were not entirely chimerical, because a Sino-Pakistani entente was under way. Despite these limitations, the Indian political leadership responded to Pakistani aggression with vigor and granted the Indian military the necessary authority to expand the scope of the war. In marked contrast to the politico-military context of 1965, in 1999 India had a self-confident (if belligerent) political leadership and a substantially more powerful military apparatus. Moreover, the country had overcome most of its Nehruvian inhibitions about the use of force to resolve disputes.85 Furthermore, unlike in 1965, India had at least two reserve strike corps in the Punjab in a state of military readiness and poised to attack across the border if given the political nod.86 Despite these significant differences and advantages, the Indian political leadership chose to scrupulously limit the scope of the conflict to the Kargil region. As K. Subrahmanyam, a prominent Indian defense analyst and political commentator, wrote in 1993:.

The awareness on both sides of a nuclear capability that can enable either country to assemble nuclear weapons at short notice induces mutual caution. This caution is already evident on the part of India. In 1965, when Pakistan carried out its “Operation Gibraltar” and sent in infiltrators, India sent its army across the cease-fire line to destroy the assembly points of the infiltrators. That escalated into a full-scale war. In 1990, when Pakistan once again carried out a massive infiltration of terrorists trained in Pakistan, India tried to deal with the problem on Indian territory and did not send its army into Pakistan-occupied Kashmir.87

### israel strikes

The logic of the internal link is laughable

First – the US already opposes strikes and is pressuring Israel against preemption

Dunn, 7 (David Hastings – Senior Lecturer in the Department of Political Science and International Studies at the University of Birmingham, “‘Real men want to go to Tehran’: Bush, pre-emption and the Iranian nuclear challenge”, International Affairs 83.1, http://www.diplomatie.gouv.fr/fr/IMG/pdf/iranpreemption.pdf)

If not America, then what about an Israeli military strike against Iran? Again, plans are well publicized as to what contingency plans the Israeli Defence Force has put in place.45 Israel has even briefed journalists of plans to destroy the Natanz facility using low-yield tactical nuclear weapons.46 In practice, however, the nature of the Iranian programme makes its destruction by Israel much harder than the attack on the Iraq plant in 1981. Given the range, dispersal and hardening of the facilities it is even less assured that an Israeli attack could succeed in destroying Iran’s nuclear facilities with conventional munitions and the use of nuclear weapons pre-emptively would be politically inﬂ ammatory.47 The irony of denying Iran a nuclear weapons capability by the very use of such a weapon would further enrage international opinion and reinforce perceptions of double standards with regard to Israel and the Muslim world. Given that Israel would most probably need to over-ﬂ y Iraq to get to Iran, America would be implicated as complicit in any action and therefore not immune from retaliation even if it was not directly involved.48 For this reason Washington has privately discouraged Israel from contemplating such an attack.

The only scenario for Israel striking Iran is if negotiations break down–

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

Given Israel’s status as an assumed but undeclared nuclear weapons state, the most immediate consequence of Iran’s crossing the nuclear threshold would be the emergence of an unstable bipolar nuclear competition in the Middle East. Given Israel’s enormous quantitative and qualitative advantage in nuclear weapons—its arsenal is estimated to consist of anywhere from 100 to more than 200 warheads, possibly including thermonuclear weapons—Tehran might fear a disarming preventive or preemptive strike. During a crisis, then, the Iranian leadership might face a “use them or lose them” dilemma with respect to its nuclear weapons and resolve it by attacking first. For their part, Israeli leaders might also be willing to strike first, despite the enormous risks. Israel’s small size means that even a few nuclear detonations on its soil would be devastating; Iran’s former president Ali Akbar Hashemi Rafsanjani was exaggerating only slightly when he claimed that “even one nuclear bomb inside Israel will destroy everything.” Iran’s nuclear arsenal is likely to be small at first and perhaps vulnerable to a preventive attack. Moreover, even if current and future Israeli missile defenses could not stop a full-scale premeditated attack by ballistic missiles, they might be eªective against any retaliation Iran might launch if it were hit first. And the willingness to execute a preventive or preemptive strike when confronting a serious threat is a deeply ingrained element of Israel’s strategic culture, as Israel demonstrated in its attacks against Egypt in 1956 and 1967, against Iraq’s nuclear program in 1981, and against a suspected Syrian nuclear site in 2007. On the one occasion that Israel absorbed the first blow, in 1973, it came perilously close to defeat. In short, the early stages of an Iranian-Israeli nuclear competition would be unstable.

### iran ov

Nuclear Iran kills U.S. hegemony – emboldens enemies and weakens alliances

Takeyh and Lindsay, 10

[James M. Lindsay, Senior Vice President, Director of Studies, and Maurice R. Greenberg Chair, Ray Takeyh, Senior Fellow for Middle Eastern Studies “After Iran Gets the Bomb Containment and Its Complications,” March/April 2010, <http://www.cfr.org/publication/22182/after_iran_gets_the_bomb.html>]

The dangers of Iran's entry into the nuclear club are well known: emboldened by this development, Tehran might multiply its attempts at subverting its neighbors and encouraging terrorism against the United States and Israel; the risk of both conventional and nuclear war in the Middle East would escalate; more states in the region might also want to become nuclear powers; the geopolitical balance in the Middle East would be reordered; and broader efforts to stop the spread of nuclear weapons would be undermined. The advent of a nuclear Iran—even one that is satisfied with having only the materials and infrastructure necessary to assemble a bomb on short notice rather than a nuclear arsenal—would be seen as a major diplomatic defeat for the United States. Friends and foes would openly question the U.S. government's power and resolve to shape events in the Middle East. Friends would respond by distancing themselves from Washington; foes would challenge U.S. policies more aggressively.

Such a scenario can be avoided, however. Even if Washington fails to prevent Iran from going nuclear, it can contain and mitigate the consequences of Iran's nuclear defiance. It should make clear to Tehran that acquiring the bomb will not produce the benefits it anticipates but isolate and weaken the regime. Washington will need to lay down clear "redlines" defining what it considers to be unacceptable behavior—and be willing to use military force if Tehran crosses them. It will also need to reassure its friends and allies in the Middle East that it remains firmly committed to preserving the balance of power in the region.

Containing a nuclear Iran would not be easy. It would require considerable diplomatic skill and political will on the part of the United States. And it could fail. A nuclear Iran may choose to flex its muscles and test U.S. resolve. Even under the best circumstances, the opaque nature of decision-making in Tehran could complicate Washington's efforts to deter it. Thus, it would be far preferable if Iran stopped—or were stopped—before it became a nuclear power. Current efforts to limit Iran's nuclear program must be pursued with vigor. Economic pressure on Tehran must be maintained. Military options to prevent Iran from going nuclear must not be taken off the table.

Even if their defense is true, it still jacks credibility

Bolton, senior fellow – AEI, 4/15/’11

(John, <http://www.aei.org/article/103463>)

Inside Iran, we now have confirmation—thanks to disclosures this month by an Iranian opposition group, which have been confirmed by Iranian officials—that the regime has the capability to mass-produce critical components for centrifuges used to enrich uranium to weapons-grade levels. That news proves again the inefficacy of U.N. Security Council resolutions and sanctions against a determined adversary.

Thus Iran's weapons program proceeds full steam ahead, which only emphasizes to would-be proliferators that persistence pays. Moammar Gadhafi surrendered his nuclear weapons program in 2003-04 because he feared becoming the next Saddam Hussein, but he is now undoubtedly cursing his timidity. Had he made seven years of progress toward deliverable nuclear weapons, there would surely be no NATO bombing of his military today.

An Iranian nuclear capability would undoubtedly cause Saudi Arabia, Egypt, Turkey and perhaps others to seek their own deliverable nuclear weapons. We would therefore see a region substantially more in Iran's thrall and far more unstable and dangerous for Washington and its allies.

Moreover, America's failure to stop Iran's nuclear ambitions—which is certainly how it would be perceived worldwide—would be a substantial blow to U.S. influence in general. Terrorists and their state sponsors would see Iran's unchallenged role as terrorism's leading state sponsor and central banker, and would wonder what they have to lose.

### link

The o’hanlon evidence says the Syria vote will make a huge difference on how Obama can pressure Syria, but since then that issue’s been resolved which is a key uq window

Aaron David Miller, Foreign Policy, 9/16/13, The Tally , www.foreignpolicy.com/articles/2013/09/16/the\_tally\_winners\_and\_losers\_syria?page=full

In the wake of this deal, will the president and his activist secretary of state be viewed as strategic geniuses, exquisite masters of the calibration of force and diplomacy? I don't think so. It's too late for that. Too many twists and turns, ups and downs, false starts and stops, and inconsistencies in language and tactics. But there's no doubt that the two are looking much better now than they have since the crisis began. After all, it was the president's willingness (however reluctantly) to put force on the table and his pivot to Congress (however weak it made him appear, particularly when he didn't have the votes) that opened up the space for Putin's seizing on an idea that had been raised before.

Let's also remember that the Syrian crisis has been a dog's lunch for the president from the get-go. Until now, Obama had three options on Syria, all of them bad: do nothing in the face of the largest single use of chemical weapons against civilians since Saddam Hussein used them against the Kurds; develop a comprehensive military strategy, including arming the rebels with serious weapons; or take the middle road of a limited strike. Now, the president has a fourth option: avoid military action and maybe get Assad's chemical weapons offline, weaken him, and perhaps, in cooperation with the Russians, initiate a broader process to end the civil war.

What's more, even if the follow-up proves fantastical, the new framework will be welcomed by the American public and by Congress, more so than a limited strike. If the administration doesn't try to oversell the deal or portray themselves as a bunch of Talleyrands, Gladstones, and Metternichs, it could get out of this crisis without any more damage to its image -- which has suffered from the Keystone Cops-style handling of the situation -- and with a fair share of the credit, too.

(5) Iran

For Iran, a diplomatic solution to the chemical weapons crisis is far preferable to a military strike. Whether or not congressional opposition to U.S. military action in Syria will encourage Iran to believe that Obama won't act against its nuclear program is impossible to say. But Tehran -- which is no fan of chemical weapons, given Iraq's use of gas against Iranians during the Iran-Iraq war -- has done much to preserve the military balance on the ground in Assad's favor. A political deal keeps their man in Damascus in power. Also, like the Russians, Iran probably fears the impact of repeated strikes. Once the glass ceiling on military action is broken, the pressure, and even expectations, for U.S. action might rise. For now, that's no longer a concern.

The plan’s restriction on Obama destroys potential Iran negotiations and causes widespread backlash

Jon Alterman, CSIS Global Security Chair and Middle East Program Director, 9/4/13, US-Iran Nuclear Deal Hinges On Syria Vote, www.al-monitor.com/pulse/originals/2013/09/us-iran-nuclear-deal-hinges-on-syria-vote.html

Focusing solely on events in Syria, however, misses a large part of the Iranian calculus, if not the largest. What really matters to Iran is how successful Obama is in winning congressional support for his Syria policy. If he fails, it will deal a double blow to the president. Not only will the Iranian government dismiss the possibility of negotiations with his administration, it will also conclude that Obama can be defied with impunity. The international cost of domestic political failure would be profound.

To start, it is worth noting the extent to which foreign governments are sophisticated consumers of American political information. Decades of international cable news broadcasts and newspaper websites have brought intimate details of US politics into global capitals. Foreign ministers in the Middle East and beyond are US news junkies, and they seem increasingly distrustful of their embassies. For key US allies, the foreign minister often seems to have made him- or herself the US desk officer. Most can have a quite sophisticated discussion on congressional politics and their impact on US foreign relations.

The Iranian government is no exception. While former president Mahmoud Ahmedinejad was emotional and shrill in his opposition to the United States, there remains in Iran a cadre of Western-trained technocrats, fluent in English and nuanced in their understanding of the world. President Hassan Rouhani has surrounded himself with such people, and Supreme Leader Ayatollah Ali Khamenei has charged them with investigating a different relationship between Iran and the United States.

As they do so, they cannot help but be aware that on the eve of Rouhani’s inauguration, the US House of Representatives voted 400–20 to impose stiff additional sanctions on Iran. The House saw Rouhani’s electoral victory as a call for toughness, not potential compromise.

If Iran were to make concessions in a negotiation with the United States, they would surely seek sanctions relief and other actions requiring congressional approval. To make such concessions to Obama, they would need some confidence that he can deliver. A president who cannot bring around a hostile Congress is not a president with whom it is worth negotiating.

#### Just the link destroys US credibility and causes regional instability

Jon Alterman, CSIS Global Security Chair and Middle East Program Director, 9/4/13, US-Iran Nuclear Deal Hinges On Syria Vote, www.al-monitor.com/pulse/originals/2013/09/us-iran-nuclear-deal-hinges-on-syria-vote.html

There is, however, an even more stark consequence of Obama losing the Syria vote in Congress. Should the White House, with its immense power and prestige, fail to build sufficient support, leaders around the world will conclude that this president can be defied with impunity. If he cannot win the support of those close to him, what hope does he have of winning over those at a distance?

The consequence here would be a combination of much more difficult diplomacy and even more bad behavior around the world that requires diplomacy to address. Hard-liners in Iran and their allies around the Middle East would certainly be emboldened, and regional states would be far less likely to rely on US cues in managing their own issues. Arab-Israeli negotiations, as well, would be dealt a fundamental blow, as each party would retreat to its own maximal position. China, Russia and a host of other countries are watching closely as well.