## Counterplan

### Counterplan 2nc

#### The Syria component of Alterman is outdated – the deferral of the Congressional vote in favor of diplomacy was a win – it answers the aff’s main solvency claim

**Pittsburgh Post-Gazette, 9/17**/13 (“SYRIAN SOLUTION?; DIPLOMACY TO END THE WAR STILL HAS A LONG WAY TO GO” lexis)

With the help of adroit diplomacy by the United States and others, the problem of Syria has been moved to a much better state than it was in a week ago.

At the same time, the situation is precarious, with a lot of "ifs" and moving pieces, the equivalent of a close football game in which the home team is ahead by two points but the contest is only in the second quarter.

President Barack Obama is considerably better off. Instead of facing a vote in Congress on attacking Syria -- which he probably would have lost, with unknown but serious consequences -- the issue of what to do about Syrian President Bashar Assad and his regime's possession and possible use of chemical weapons has now been shifted to international diplomacy, first through an agreement reached Saturday between the United States and Russia and then to implementation by the United Nations. That is where it should be, especially according to the U.S. public, who have indicated that they have no taste for another Middle East war, on the heels of the long Iraq war and the longer Afghanistan war now winding down.

Americans' distaste was based on a perception that, in spite of Mr. Obama's claims, no vital U.S. interests were at stake in Syria. They also developed no enthusiasm for U.S. attacks, in spite of advocacy by Sen. John McCain, R-Ariz., the American Israel Public Affairs Committee and some of the Syrian rebel groups.

The list of actions that must occur before anyone, including Mr. Obama, is out of the woods is nonetheless daunting. The Assad government must hand over a list of all its chemical weapons. U.N. inspectors have to see, secure and eventually destroy them, based on a Security Council resolution that has yet to be agreed upon and passed. To seek a transition from a chemical weapons agreement to a satisfactory end to the two-year-old civil war, the Syrian rebels, which include al-Qaida-affiliated groups, must be brought to a negotiating table through a combination of cajolery and military aid.

All this will not be easy, but it is preferable to the human, political and financial cost to the United States of another war. The performance of Secretary of State John F. Kerry so far encourages some optimism that he can, in the end, bring the matter to a successful conclusion for America.

#### And the deal is on track despite Syria – Obama’s threat of force was sufficient

**Taylor, 9/16/13** (David, “Syria crisis could lead to a nuclear deal with Iran” The Times, lexis)

President Obama offered hope yesterday for a deal with Iran over its nuclear ambitions as he disclosed that he had exchanged letters with the country's new, moderate leader.

The first sign of a thaw in relations with Iran, after 34 years without face-to-face talks, comes as President Rowhani heads for the UN General Assembly next week.

Mr Obama said in an interview that the US threat of a strike on Syria, followed by a pause for diplomacy, sent a message to Iran that a deal could be done. He said that the question of Iran's nuclear weapons was "a far larger issue for us than the chemical weapons" and warned that just because America had not launched air strikes at Syria it did not mean they would not strike at Iran.

"What they should draw from this lesson is that there is the potential of resolving these issues diplomatically," Mr Obama told ABC News. "This new President is not going to suddenly make it easy. But my view is that if you have both a credible threat of force, combined with a rigorous diplomatic effort, that, in fact, you can strike a deal." His comments were aired hours after talks with Russia led to the publication of a detailed timetable for destroying Syria's chemical weapons arsenal by mid-2014. The Assad regime has been given until Friday to hand over details of the size and location of its stockpile, and inspectors must be allowed in to complete an audit by November.

#### But we’ll concede their Alterman evidence because it’s negative evidence – it says if Obama lost the Syria vote, then it would wreck his relations with Congress and end the possibility of an Iran deal. The plan effectively fiats a hostile Congress by unilaterally ending his war powers. It telegraphs a clear signal that Congress would have said no to Syria

**Alterman, 9/4/13 –** aff solvency author (Jon, “US-Iran Nuclear Deal Hinges On Syria Vote” http://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.

In this respect, Syria is a dry run for Obama's lobbying ability on foreign policy. Until now, his record with Congress has been checkered. Congressional representatives complain that the White House has given them the cold shoulder time after time, and there seems to be little warmth between the president and his former colleagues in the legislature. Persuading Congress to back a military action that the majority of the public opposes will require presidential charm, pressure, and a good measure of buttonholing and jawboning. Based on his past performance, Obama appears to be neither a joyful nor an especially skillful practitioner of these political arts.

As difficult as it is for Obama to persuade Congress to fight another battle in the Middle East, it would be even more difficult to persuade it to accept a negotiated deal with Iran. Suspicions about Iran run deep in the United States, as well as among many US allies in the Middle East. Should the White House decide to focus principally on the president’s domestic legacy, it may seem less costly to deter Iran and maintain that no clear nuclear threshold has been crossed than to sell a deal to a skeptical Congress. That would then put the onus on Iran to make any approach to the United States sufficiently attractive to gain the president’s attention. Iranians will surely view a demonstration of the president’s inability to bring Congress along on Syria as a sign that there is no hope of his delivering Congress on Iran. US-Iranian negotiations, surely in the offing for later this year, would be stillborn.

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.

Whether seeking congressional approval for military action against Syria was the right decision, it is a gambit President Obama cannot afford to lose. What he has done is raise the stakes, not only for the remaining years of his presidency, but also for the US role in the world. For a president who has sought to end unnecessary US entanglements in the Middle East, his entire foreign policy legacy hinges on persuading Congress that one more entanglement is necessary. If he cannot do that, the results will resound for years to come.

### 2nc politics nb

#### PC is a net benefit

**Sales 2012** – Assistant Professor of Law, George Mason University School of Law (7/3, Nathan Alexander, Journal of National Security Law & Policy, 6.227, “Self-Restraint and National Security”)

The utility functions of government officials famously include a wide range of values.15 As relevant here, senior policymakers in the executive branch will seek to maximize at least three things. Above all, they will want to maximize their chances of keeping their jobs. First-term Presidents want to be reelected; members of the cabinet and the White House staff want their boss to stay in office and they want to retain his confidence.16 Second, policymakers will want to maximize their political capital, which they can use to promote their domestic and international policy agendas. A President who wants Congress to enact desired legislation is more likely to attain that goal if he has high public approval ratings and is able to call in favors on Capitol Hill than if he is unpopular with voters and lacks congressional allies.17 Third, taking a longer view, policymakers will want to burnish their legacies. Presidents want to be on the “right side of history”; they want future generations to approve of the policy choices they make while in power.18

This quest for job security, political capital, and legacy will lead policymakers to pursue two specific goods in the national security context. First, operational success. Policymakers will want a given military or intelligence operation to accomplish the objective that it is meant to achieve. If a President leads a war that quickly topples the enemy, he is likely to enjoy improved public approval ratings, weaker resistance from political opponents, and the prospect of favorable treatment in the history books.19 A President who leads the nation into a quagmire can expect the opposite outcomes. Second, policymakers seek legal compliance. They will want a given operation to accomplish its goals in a way that does not offend any applicable principle of domestic or international law. This is so because the costs of such violations can be significant.20 All things being equal, a wartime President would prefer to vanquish an enemy by complying with the law of war than to gain victory by, say, deliberately bombing protected civilians. Policymakers commission two different sets of agents to pursue these goals. Operators are responsible for the first – mission success. Reviewers are responsible for the second – legal compliance. Neither agent receives a comprehensive commission to act as the principals’ surrogate. Instead, responsibility for achieving policymakers’ twin objectives is divided.

#### Self-restraint generates polcap and shields blame

**Sales 2012** – Assistant Professor of Law, George Mason University School of Law (7/3, Nathan Alexander, Journal of National Security Law & Policy, 6.227, “Self-Restraint and National Security”)

My use of this analytical framework is not intended to deny the validity ¶ of other possible explanations for self-restraint. For instance, Eric Posner ¶ and Adrian Vermeule argue that Presidents have an incentive to engage in ¶ “self binding,” because it will enhance their credibility and “generate ¶ support from the public and other members of the government.”45 Elizabeth ¶ Magill likewise argues that bureaucrats sometimes find it advantageous to ¶ “self-regulate” – i.e., “limit their options when no source of authority ¶ requires them to do so” – as a means of controlling subordinates, inducing ¶ reliance by outside parties, and entrenching today’s policy choices.46 Still ¶ more accounts emerge if we widen the analytical lens beyond public choice ¶ principles. One might explain self-restraints by consulting theories of ¶ bounded rationality – the notion that imperfect information, cognitive ¶ failures, and other factors prevent bureaucratic players from accurately ¶ measuring the expected costs and benefits of a given action.47 Or one might ¶ look to new institutionalism – the notion that bureaucratic outputs are ¶ determined in large part by organizations’ cultures, histories, and ¶ structures.48 And, of course, there are the public interest explanations: ¶ Officials might embrace a particular restraint because they believe in good ¶ faith that it represents sound public policy. The public interest framework ¶ may actually complement, not contradict, this article’s public choice story. ¶ One of the reasons officials might build their bureaucratic empires is ¶ because they calculate that doing so will position them to achieve desirable ¶ policy outcomes. In any event, the point of this article is to generate ¶ hypotheses that can account for the occasional tendency of national security ¶ figures to restrain themselves. Other frameworks are likely to yield equally ¶ plausible alternative hypotheses.

### 2nc future pres

#### Executives rely on OLC too much to be flippant

**Morrison 2011** – Professor of Law, Columbia University (Trevor W., Harvard Law Review, ““Hostilities,” the Office of Legal Counsel, and the Process of Executive Branch Legal Interpretation”, 124 HARV. L. REV.F. 62, http://web.law.columbia.edu/sites/default/files/microsites/constitutional-governance/files/Libya-Hostilities-Office-of-Legal-Counsel.pdf)

The White House is one of the main beneficiaries of that reputation. When OLC concludes that a government action is lawful, its conclusion carries a legitimacy that other executive offices cannot so readily provide. That legitimacy is a function of OLC’s deep traditions and unique place within the executive branch. Other executive offices — be they agency general counsels or the White House Counsel’s Office — do not have decades-long traditions of providing legal advice based on their best view of the law after fully considering the competing positions; they have not generated bodies of authoritative precedents to inform and constrain their work; and they do not issue legal opinions that, whether or not they favor the President, are treated as presumptively binding within the executive branch. (Nor should those other offices mimic OLC; that is not their job.) Because the value of a favorable legal opinion from OLC is tied inextricably to these aspects of its work, each successive presidential administration has a strong incentive to respect and preserve them.

### 2nc theory block

#### The counterplan is a rational policy choice based in topic lit

**Sales 2012** – Assistant Professor of Law, George Mason University School of Law (7/3, Nathan Alexander, Journal of National Security Law & Policy, 6.227, “Self-Restraint and National Security”)

With this framework in mind, we can begin to offer some preliminary ¶ hypotheses about why national security officials sometimes adopt selfrestraints. From a policymaker’s standpoint, the expected benefits of a ¶ national security operation often will be dwarfed by its expected costs ¶ (enemy propaganda, loss of national prestige, individual criminal liability, ¶ and so on). For **rational policymakers**, the welfare maximizing choice ¶ sometimes will be to avoid bold and aggressive operations. Reviewers ¶ likewise can find inaction to be welfare maximizing. For an influence- and ¶ autonomy-maximizing reviewer, vetoing an operation proposed by a ¶ bureaucratic competitor can redistribute power and turf away from one’s ¶ rival and to oneself. Operators, by contrast, are likely to have a very ¶ different cost-benefit calculus. An operator’s expected benefits typically ¶ will be larger than a policymaker’s or a reviewer’s, because he will account ¶ for the psychic income (such as feelings of exhilaration and satisfaction)¶ that accrues to those who personally participate in a mission. As a result, ¶ rational operators may regard a given operation as welfare-enhancing even ¶ when policymakers and reviewers regard the same mission as welfarereducing. ¶ A few observations are needed about the public choice framework ¶ sketched out above – its possibilities and its limitations – before applying it. ¶ This article emphasizes restraints imposed by elements **within the executive** ¶ branch. But the framework also might be used to explain why Congress ¶ sometimes adopts restraints for the government as a whole – i.e., why ¶ Congress enacts legislation restricting the executive’s operational authority ¶ more severely than is required by domestic law (in this case the ¶ Constitution) or international law. First, there may be an asymmetry in the ¶ legislators’ expected value calculations. Members of Congress might ¶ conclude, for example, that the expected costs of conducting mildly ¶ coercive interrogations outweigh the expected benefits and thus enact ¶ legislation banning the military from using any technique not listed in the ¶ Army Field Manual, as it did in the Detainee Treatment Act of 2005.33¶ Second, members might engage in a form of empire building, allocating to ¶ themselves a greater portion of the war powers they share with the ¶ President. For example, Congress might assert its primacy over covert ¶ operations by passing a law prohibiting the President from approving ¶ assassinations, as the Church Committee proposed in the late 1970s.34 Still, ¶ the Executive probably is more likely to adopt restraints than Congress is, ¶ because the Executive’s expected costs of an operation gone wrong usually ¶ will be greater.35 Unlike legislators, executive branch officials face the ¶ prospect of personal legal liability for approving or participating in ¶ operations that are alleged to violate domestic or international law.36

### 2nc united front key

#### Their answers don’t assume a united front of OLC and Solicitor General

**Pillard 2005** – JD from Harvard, Faculty Director of Supreme Court Institute at Georgetown University Law Center, former Deputy Assistant Attorney General in the DOJ (February, Cornelia T., Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758, http://scholarship.law.georgetown.edu/facpub/189/)

\*NOTE: OLC = Office of Legal Counsel; SG = Solicitor General. Both in Justice Department.

One such difference is that all of the OLC deputies are politically appointed, whereas in the SG's Office, three out of the four deputies are career employees. A more politically led office seems less likely to make impartial, arms-length constitutional decisions, but the political pedigree of OLC's leadership may give it credibility with the political leadership of client entities by helping them to trust that OLC will not use constitutional objections as a back-door way to stop or limit policies with which it simply disagrees. Only when clients are willing to abide by its advice can OLC play a client-checking role. Another difference between the two offices is that, whereas only one deputy reviews each matter in the SG's office, OLC customarily follows a "two-deputy rule," permitting advice on behalf of the office only after review and approval by two deputies. Without the immediate threat of an adverse court judgment against an agency that fails to follow its advice, OLC's clout depends more on support from other sources. Presenting a "united front," rather than lone authors more readily questioned as idiosyncratic, may enhance OLC's authority with its clients.125

#### Here’s ev in the context of war powers

**Pillard 2005** – JD from Harvard, Faculty Director of Supreme Court Institute at Georgetown University Law Center, former Deputy Assistant Attorney General in the DOJ (February, Cornelia T., Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758, http://scholarship.law.georgetown.edu/facpub/189/)

Just as the SG is the federal government's chief litigator, the head of the Office of Legal Counsel is the executive branch's chief legal advisor. The Attorney General has formally delegated the legal-advice-giving part of his statutory responsibility to OLC.104 OLC has no enforcement or litigation responsibilities, and is devoted exclusively to giving legal advice. OLC's role within the executive branch has evolved over the years, with tasks calling for legal and, especially, constitutional judgment migrating to OLC, while more politicized tasks, like OLC's short involvement in vetting potential judicial nominees, being reassigned elsewhere.105

OLC's core work is to provide written and oral legal opinions to others within the executive branch, including the president, the Attorney General, and heads of other departments. In practice, the White House and the Attorney General are by far the most frequent requesters, often asking complex, momentous questions, frequently on short notice. OLC clients may seek opinions on matters such as the sustainability of a claim of executive privilege, or the lawfulness in a particular circumstance of a quarantine, detention, or use of military force. OLC has been consulted when troops have been sent abroad and when international criminals were arrested overseas.106 Much of OLC's work is more quotidian, including topics such as the constitutionality under the Appointments Clause of various boards and commissions, or the scope of an agency's statutory authority to alter a regulation or settle a case in a particular way. Its opinions "involve domestic problems, international issues, pet plans of bureaucrats, the application of the Constitution and the laws to administrative policies and procedures, the powers and jurisdictions of departments and agencies, the advisability of contemplated actions, [and various mundane and] momentous matters." 107

OLC traditionally requires that requests for advice come from the head or general counsel of the requesting agency, that advice-seekers submit their own view of the question to OLC, and that independent agencies (not already presumptively bound) agree in advance to abide by the advice - even oral advice - that OLC delivers.108 The agreement to be bound forestalls opportunistic advice-shopping by entities willing to abide only by advice they like, and it preserves the resources and authority of OLC against being treated merely as an extra source of legal research on issues that other lawyers or officials will ultimately resolve for themselves.109

## Pres Powers

### 2nc turns case

#### New crises mean the President circumvents the plan

**Young, 13** - Laura D. Young is an instructor for the Department of Political Science at Purdue University (“Unilateral Presidential Policy Making and the Impact of Crises” Presidential Studies Quarterly, Wiley)

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.

#### It outweighs external restrictions on the President

**Young, 13** - Laura D. Young is an instructor for the Department of Political Science at Purdue University (“Unilateral Presidential Policy Making and the Impact of Crises” Presidential Studies Quarterly, Wiley)

During periods of crisis, the time available to make decisions is limited. Because the decision-making process is often arduous and slow in the legislative branch, it is not uncommon for the executive branch to receive deference during a crisis because of its ability to make swift decisions. The White House centralizes policies during this time, and presidents seize these opportunities to expand their power to meet policy objectives. Importantly, presidents do so with limited opposition from the public or other branches of government (Howell and Kriner 2008). In fact, despite the opposition presidents often face when centralizing policies, research shows policies formulated via centralized processes during times of crisis receive more support from Congress and the American people (Rudalevige 2002, 148-49).

For several reasons, a crisis allows a president to promote his agenda through unilateral action. First, a critical exogenous shock shifts attention and public opinion (Birkland 2004, 179). This shift is a phenomenon known as the “rally round the flag” effect (Mueller 1970). The rally effect occurs because of the public’s increase in “its support of the president in times of crisis or during major international events” (Edwards and Swenson 1997, 201). Public support for the president rises because he is the leader and, therefore, the focal point of the country to whom the public can turn for solutions. Additionally, individuals are more willing to support the president unconditionally during such times, hoping a “united front” will increase the chance of success for the country (Edwards and Swenson 1997, 201).

As a result, a crisis or focusing event induces an environment that shifts congressional focus, dispels gridlock and partisanship, and increases positive public opinion— each of which is an important determinant for successful expansion of presidential power (Canes-Wrone and Shotts 2004; Howell 2003). In other words, a crisis embodies key elements that the institutional literature deems important for presidential unilateral policy making.

The president’s ability to focus attention on a particular issue is also of extreme importance if he wishes to secure support for his agenda (Canes-Wrone and Shotts 2004; Edwards and Wood 1999; Howell 2003; Neustadt 1990). The role the media play is pivotal in assisting a president in achieving such a result because of its ability to increase the importance of issues influencing the attention of policy makers and the priorities of viewers. Although it is possible a president can focus media attention on the policies he wishes to pursue through his State of the Union addresses or by calling press conferences, his abilities in this regard are limited, and the media attention he receives is typically short lived (Edwards and Wood 1999, 328-29).

High-profile events, on the other hand, are beneficial because they allow the president to gain focus on his agenda. This occurs because the event itself generates attention from the media without presidential intervention. Thus, the ability of crises to set the agenda and shift media and public attention provides another means for overcoming the constraints placed upon the president’s ability to act unilaterally.

Finally, Rudalevige finds support that a crisis increases the success of presidential unilateral power even if the policy process is centralized. A crisis allows little time to make decisions. As a result, “the president and other elected officials are under pressure to ‘do something’ about the problem at hand” (2002, 89, 148). Because swift action is necessary, presidents rely on in-house advice. As a result, the policy formation process is centralized, and the president receives deference to unilaterally establish policies to resolve the crisis.

During a crisis, the president has greater opportunity to guide policy because the event helps him overcome the congressional and judicial obstacles that typically stand in his way.2 This affords the president greater discretion in acting unilaterally (Wildavsky 1966). It is possible the institutional make-up of the government will align so that the president will serve in an environment supportive of his policy decisions. It is also likely a president will have persuasive powers that enable him to gain a great deal of support for his policy agenda. An event with the right characteristics, however, enhances the president’s ability to act unilaterally, regardless of the institutional make-up of government or his persuasive abilities.

### \*2nc perception link

#### The debates over the plan alone weaken the President – kills resolve, collapses the economy, spurs aggression

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 60)

In this way, measures urged by the executive to cope with a crisis of unclear magnitude acquired a kind of self-created momentum. Rejection of those measures would themselves create a political crisis that might, in turn, reduce confidence and thus trigger or exacerbate the underlying financial crisis. A similar process occurred in the debates over the AUMF and the Patriot Act, where proponents of the bills urged that their rejection would send terrorist groups a devastating signal about American political willpower and unity, thereby encouraging more attacks. These political dynamics, in short, create a self-fulfilling crisis of authority that puts legislative institutions under tremendous pressure to accede to executive demands, at least where a crisis is even plausibly alleged.

Critics of executive power contend that the executive exploits its focal role during crises in order to bully and manipulate Congress, defeating Madisonian deliberation when it is most needed. On an alternative account, the legislature rationally submits to executive leadership because a crisis can be addressed only by a leader. Enemies are emboldened by institutional conflict or a divided government; financial markets are spooked by it. A government riven by internal conflict will produce policy that varies as political coalitions rise and fall. Inconsistent policies can be exploited by enemies, and they generate uncertainty at a time that financial markets are especially sensitive to agents’ predictions of future government action. It is a peculiar feature of the 2008 financial crises that a damaged president could not fulfill the necessary leadership role, but that role quickly devolved to the Treasury secretary and Fed chair who, acting in tandem, did not once express disagreement publicly.

#### This causes crisis escalation

**Waxman, 13** ­- Professor of Law, Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations (Matthew, “The Constitutional Power To Threaten War” Yale Law Journal, SSRN)

A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued:

In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the most important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. …

[I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179

#### Collapses heg

**Bolton, 9** – senior fellow at the AEI and former ambassador to the UN (John, “The danger of Obama's dithering,” Los Angeles Times, 10/18, <http://articles.latimes.com/2009/oct/18/opinion/oe-bolton18>)

Weakness in American foreign policy in one region often invites challenges elsewhere, because our adversaries carefully follow diminished American resolve. Similarly, presidential indecisiveness, whether because of uncertainty or internal political struggles, signals that the United States may not respond to international challenges in clear and coherent ways.

Taken together, weakness and indecisiveness have proved historically to be a toxic combination for America's global interests. That is exactly the combination we now see under President Obama. If anything, his receiving the Nobel Peace Prize only underlines the problem. All of Obama's campaign and inaugural talk about "extending an open hand" and "engagement," especially the multilateral variety, isn't exactly unfolding according to plan. Entirely predictably, we see more clearly every day that diplomacy is not a policy but only a technique. Absent presidential leadership, which at a minimum means clear policy direction and persistence in the face of criticism and adversity, engagement simply embodies weakness and indecision.

### 2nc links

#### Increasing Congressional power spills over to destabilize all presidential war powers

**Heder, 10 –** JD, Brigham Young (Adam, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER” 41 St. Mary's L. J. 445, lexis)

This constitutional silence invokes Justice Rehnquist's oft-quoted language from the landmark "political question" case, Goldwater v. Carter. n121 In Goldwater, a group of senators challenged President Carter's termination, without Senate approval, of the United States' Mutual Defense Treaty with Taiwan. n122 A plurality of the Court held, n123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. n124 He wrote: "In light of the absence of any constitutional provision governing the termination of a treaty, ... the instant case in my view also "must surely be controlled by political standards.'" n125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is no constitutional provision on whether Congress has the legislative power to limit, end, or otherwise redefine the scope of a war. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution "add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone," n126 the [\*475] same cannot be said about Congress's legislative authority to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context.

Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully declined to grant Congress such powers. And as this Article argues, granting Congress this power would be inconsistent with the general war-powers structure of the Constitution. Such a reading of the Constitution would unnecessarily empower Congress and tilt the scales heavily in its favor. Moreover, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time when the Executive's expertise is needed. n127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. n128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. n129

[\*476] Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings. Adjudicating these matters would only lead the courts to engage in impermissible line drawing - lines that would both confuse the issue and add layers to the text of the Constitution in an area where the Framers them-selves declined to give such guidance.

#### The plan creates a formal legacy chain that causes further restraint—no risk of a link turn.

**Paul, 8 -** PhD in Sociology (University of California, Los Angeles, 2001); Social Scientist, RAND (Christopher, “US Presidential War Powers: Legacy Chains in Military Intervention Decisionmaking” Journal of Peace Research, Vol. 45, No. 5 (Sep., 2008), pp. 665-679, JSTOR)

Legacy Chains

Finegold & Skocpol (1995: 222) describe policy legacies:

Past and present policies are connected in at least three different ways. First, past policies give rise to analogies that affect how public officials think about contemporary policy issues. Second, past policies suggest lessons that help us to understand the processes by which contemporary policies are formulated and implemented and by which the consequences of contemporary policies will be determined. Third, past policies impose limitations that reduce the range of policy choices available as responses to contemporary problems.

All three of the ways in which they connect past policy to present policy can be viewed as changes in the institutional context in which policy is made. These legacies are institutionalized in two different ways: first, through changes in formal rules or procedures, and second, in the 'taken for granteds', 'schemas', and accepted wisdom of policy makers and ordinary citizens alike (Sewell, 1992: 1-29).

While a policy or event can leave multiple legacies, it often leaves a single major legacy. For example, the War Powers Resolution formally changed the relationship between the president and the congress with regard to war-making and the deployment of troops. Subsequent military interventions were influenced by this change and have, in turn, left their own legacy (legal scholars might call it precedent) as a link in that chain.

Legacy chains can be modified, transformed, or reinforced as they step through each 'link' in the chain. As another example, US involvement in Vietnam left a legacy in the sphere of press/military relations which affected the intervention in Grenada in 1983 (the press was completely excluded for the first 48 hours of the operation). The press legacy chain begun in Vietnam also affected the Panama invasion of 1989 (a press pool was activated, in country, but excluded from the action), but the legacy had been trans formed slightly by the Grenada invasion (the press pool system itself grew out of complaint regarding press exclusion in Grenada) (Paul & Kim, 2004).

Because of the different ways in which policy legacies are institutionalized, some legacies have unintended institutional consequences. The War Powers Resolution was intended to curtail presidential war-making powers and return some authority to the congress. In practice, the joint resolution failed to force presidents to include congressional participation in their intervention decision making, but it had the unintended consequence of forcing them to change the way they planned interventions to comply with the letter of the law (see the extended example presented later in the article).

#### Spills over to all military action

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.

Immersed in all of the uncertainty that precedes war, presidents struggle mightily to assess the possibility that the military's plans will fail, and to evaluate whether Congress in due course either will publicly condemn him and actively work to dismantle the engagement or will affirm its allegiance to him and give him the money and delegated authority he needs to proceed. If Congress will come to the president's aid and ptovide him with political cover, then he may have the assurances he needs to incur the risks involved. On the other hand, if the president looks up at Capitol Hill and sees a swarm of representatives poised to pounce at the first misstep taken, he may instead choose to abandon military options altogether. In chapter 2 of this book, we discuss in some detail how presidents make this calculation.

### 2nc heg

#### The US won’t give up the crown- we’ll go down fighting triggering all their impacts- hegemony critics agree

David P. Calleo (University Professor at The Johns Hopkins University and Dean Acheson Professor at its Nitze School of Advanced International Studies (SAIS)) 2009 “Follies of Power: America’s Unipolar Fantasy” p. 4-5

It is tempting to believe that America’s recent misadventures will discredit and suppress our hegemonic longings and that, following the presidential election of 2008, a new administration will abandon them. But so long as our identity as a nation is intimately bound up with seeing ourselves as the world’s most powerful country, at the heart of a global system, hegemony is likely to remain the **recurring obsession of our official imagination,** the id´ee fixe of our foreign policy. America’s hegemonic ambitions have, after all, **suffered** severe **setbacks before**. Less than half a century has passed since the “lesson of Vietnam.” But that lesson faded without forcing us to abandon the old fantasies of omnipotence. The fantasies merely went into remission, until the fall of the Soviet Union provided an irresistible occasion for their return. Arguably, in its collapse, the Soviet Union proved to be a greater danger to America’s own equilibrium than in its heyday. Dysfunctional imaginations are scarcely a rarity – among individuals or among nations. “Reality” is never a clear picture that imposes itself from without. Imaginations need to collaborate. They synthesize old and new images, concepts, and ideas and fuse language with emotions – all according to the inner grammar of our minds. These synthetic constructions become our reality, our way of depicting the world in which we live. Inevitably, our imaginations present us with only a partial picture. As Walter Lippmann once put it, our imaginations create a “pseudo-environment between ourselves and the world.”2 Every individual, therefore, has his own particular vision of reality, and every nation tends to arrive at a favored collective view that differs from the favored view of other nations. When powerful and interdependent nations hold visions of the world severely at odds with one another, the world grows dangerous.

#### Superpower transitions necessitate global wars.

**Khanna 09** – Director of the Global Governance Initiative at the New America Foundation (Parag, The second world: how emerging powers are redefining global competition in the twenty-first century, p. 337-338)

Even this scenario is optimistic, for superpowers are by definition willing to encroach on the turf of others—changing the world map in the process. Much as in geology, such tectonic shifts always result in earthquakes, particularly as rising powers tread on the entrenched position of the reigning hegemon.56 The sole exception was the twentieth century Anglo-American transition in which Great Britain and the United States were allies and shared a common culture—and even that took two world wars to complete.57 As the relative levels of power of the three superpowers draw closer, the temptation of the number-two to preemptively knock out the king on the hill grows, as does the lead power’s incentive to preventatively attack and weaken its ascending rival before being eclipsed.58 David Hume wrote, “It is not a great disproportion between ourselves and others which produces envy, but on the contrary, a proximity.”59 While the density of contacts among the three superpowers makes the creation of a society of states more possible than ever—all the foreign ministers have one anothers’ mobile phone numbers—the deep differences in interests among the three make forging a “culture of peace” more challenging than ever.60 China seas, hyperterrorism with nuclear weapons, an attack in the Gulf of Aden or the Straits of Malacca. The uncertain alignments of lesser but still substantial powers such as Russia, Japan, and India could also cause escalation. Furthermore, America’s foreign lenders could pull the plug to undermine its grand strategy, sparking economic turmoil, political acrimony, and military tension. War brings profit to the military-industrial complex and is always supported by the large patriotic camps on all sides. Yet the notion of a Sino-U.S. rivalry to lead the world is also premature and simplistic, for in the event of their conflict, Europe would be the winner, as capital would flee to its sanctuaries. These great tensions are being played out in the world today, as each superpower strives to attain the most advantageous position for itself, while none are powerful enough to dictate the system by itself. Global stability thus hangs between the bookends Raymond Aron identified as “peace by law” and “peace by empire,” the former toothless and the latter prone to excess.61 Historically, successive iterations of balance of power and collective security doctrines have evolved from justifying war for strategic advantage into building systems to avoid it, with the post-Napoleonic “Concert of Europe” as the first of the modern era.62 Because it followed rules, it was itself something of a societal system.\* Even where these attempts at creating a stable world order have failed—including the League of Nations after World War I—systemic learning takes place in which states (particularly democracies) internalize the lessons of the past into their institutions to prevent history from repeating itself.63 Toynbee too viewed history as progressive rather than purely cyclical, a wheel that not only turns around and around but also moves forward such that Civilization (with a big C) could become civilized.64 But did he “give too much credit to time’s arrows and not enough to time’s cycle”?65 Empires and superpowers usually promise peace but bring wars.66 The time to recognize the current revolutionary situation is now—before the next world war.67

### Nuke Terror

#### High risk of nuke terror—an attack turns multilat and makes the US hardline

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Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

#### Solves Iran Prolif, ME war, and ME escalation

Christopher Layne, Associate Professor of International Affairs at the Bush School of Government and Public Service at Texas A&M University, Iran: The Logic of Deterrence, The American Conservative, 4/10, 2006

For the same reason, Iran’s possession of nuclear weapons will not invest Tehran with options to attack or intimidate its neighbors. Just as it did during the Cold War, the U.S. can extend its own deterrence umbrella to protect its clients in the region like Saudi Arabia, the Gulf states, and Turkey. American security guarantees will not only **dissuade Iran from acting recklessly** but also **restrain proliferation** by negating the incentives for states like Saudi Arabia and Turkey to build their own nuclear weapons. Given the overwhelming U.S. advantage in both nuclear and conventional military capabilities, **Iran is not going to risk national suicide by challenging America’s security commitments** in the region. In this sense, dealing with the Iranian “nuclear threat” is actually one of the **easier** strategic challenges the United States faces. It is a threat that can be handled by an offshore balancing strategy that relies on missile, air, and naval power well away from the volatile Persian Gulf, thus reducing the American poltico-military footprint in the region. In short, while a nuclear-armed Iran is hardly desirable, neither is it “intolerable,” because it could be **contained and deterred** successfully by the United States.

### AT: No terrorism risk

#### Terrorism causes extinction and the risk is increasing- improving tech and inefficient response mechanisms

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Several powerful trends have aligned to profoundly change the way that the world works. Technology now allows stateless groups to organize, recruit, and fund themselves in an unprecedented fashion. That, coupled with the extreme difficulty of finding and punishing a stateless group, means that stateless groups are positioned to be lead players on the world stage. They may act on their own, or they may act as proxies for nation-states that wish to duck responsibility. Either way, stateless groups are forces to be reckoned with. At the same time, a different set of technology trends means that small numbers of people can obtain incredibly lethal power. Now, for the first time in human history, a small group can be as lethal as the largest superpower. Such a group could execute an attack that could kill millions of people. It is technically feasible for such a group to kill billions of people, to end modern civilization—perhaps even to drive the human race to extinction. Our defense establishment was shaped over decades to address what was, for a long time, the only strategic threat our nation faced: Soviet or Chinese missiles. More recently, it has started retooling to address tactical terror attacks like those launched on the morning of 9/11, but the reform process is incomplete and inconsistent. A real defense will require rebuilding our military and intelligence capabilities from the ground up. Yet, so far, strategic terrorism has received relatively little attention in defense agencies, and the efforts that have been launched to combat this existential threat seem fragmented. History suggests what will happen. The only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us with our shortcomings by repeatedly attacking us or hectoring us for decades.

#### Future terror attacks cause extinction- increasing tech and lack of effective US response

Nathan Myhrvold '13, Phd in theoretical and mathematical physics from Princeton, and founded Intellectual Ventures after retiring as chief strategist and chief technology officer of Microsoft Corporation , July 2013, "Stratgic Terrorism: A Call to Action," The Lawfare Research Paper Series No.2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>

Technology contains no inherent moral directive—it empowers people, whatever their intent, good or evil. This fact, of course, has always been true: when bronze implements supplanted those made of stone, the ancient world got swords and battle-axes as well as scythes and awls. Every technology has violent applications because that is one of the first things we humans ask of our tools. The novelty of our present situation is that modern technology can provide small groups of people with much greater lethality than ever before. We now have to worry that private parties might gain access to weapons that are as destructive as—or possibly even more destructive than—those held by any nation-state. A handful of people, perhaps even a single individual, now have the ability to kill millions or even billions. Indeed, it is perfectly feasible, from a technological standpoint, to kill every man, woman, and child on earth. The gravity of the situation is so extreme that getting the concept across without seeming silly or alarmist is challenging. Just thinking about the subject with any degree of seriousness numbs the mind. Worries about the future of the human race are hardly novel. Indeed, the notion that terrorists or others might use weapons of mass destruction is so commonplace as to be almost passé. Spy novels, movies, and television dramas explore this plot frequently. We have become desensitized to this entire genre, in part because James Bond always manages to save the world in the end. Reality may be different. In my estimation, the U.S. government, although well-meaning, is unable to protect us from the greatest threats we face. The other nations of the world are also utterly unprepared. Even obvious and simple steps are not being taken. The gap between what is necessary and what is being contemplated, much less being done, is staggering. My appraisal of the present situation does not discount the enormous efforts of many brave men and women in law enforcement, intelligence services, and the military. These people are doing what they can, but the resources that we commit to defense and the gathering of intelligence are mostly squandered on problems that are far less dangerous to the American public than the ones we are ignoring. Addressing the issue in a meaningful way will ultimately require large structural changes in many parts of the government. So far, however, our political leaders have had neither the vision to see the enormity of the problem nor the will to combat it. These weaknesses are not surprising: bureaucracies change only under extreme duress. And despite what some may say, the shocking attacks of September 11th, 2001, have not served as a wake-up call to get serious. Given the meager response to that assault, every reason exists to believe that sometime in the next few decades America will be attacked on a scale that will make 9/11 look trivial by comparison.

### Yes Bioterror – Motive

**Terrorist interest in bioweapons is increasing – they’re frustrated with conventional tactics**

**Kellman, 8** - Director at the International Weapons Control Center at the DePaul University College, (Barry, June, “Bioviolence: A growing threat”, The Futurist,  <http://www.wfs.org/March-April09/MJ2008_Kellman.pdf>)

Altogether, techniques that were on the frontiers of science only a decade or two ago are rapidly mutating as progress in the biological sciences enables new ways to produce lethal catastrophe. Today, they are on the horizon. Within a decade, they will be pedestrian. According to the National Academies of Science, “The threat spectrum is broad and evolving—in some ways predictably, in other ways unexpectedly. In the future, genetic engineering and other technologies may lead to the development of pathogenic organisms with unique, unpredictable characteristics.”

For as far into the future as we can possibly see, every passing day it becomes slightly easier to commit a violent catastrophe than it was the day before. Indeed, the rapid pace of advancing science helps explain why policies to prevent such a catastrophe are so complicated.  
Bioviolence Jihad?

Some experts argue that terrorists and fanatics are not interested in bioviolence and that the danger might therefore be overblown. Since there have been no catastrophic bioviolence attacks, these experts argue, terrorists lack the intention to make bioweapons. Hopefully, they are correct. But an enormous amount of evidence suggests they are wrong. From the dawn of biology’s ability to isolate pathogens, people have pursued hostile applications of biological agents. It is perilous to ignore this extensive history by presuming that today’s villains are not fervent about weaponizing disease.

Not a single state admits to having a bioweapons program, but U.S. intelligence officials assert that as many as 10 states might have active programs, including North Korea, Iran, and Syria. Moreover, many terrorist organizations have expressed interest in acquiring biological weapons. Whatever weight the taboo against inflicting disease might have for nation-states, it is obviously irrelevant to terrorists, criminals, and lunatics. Deterrence by threat of retaliation is essentially meaningless for groups with suicidal inclinations who are likely to intermingle with innocent civilians.

Al -Qaeda and affiliated Islamic fundamentalist organizations have overtly proclaimed their intention to develop and use bioweapons. The 11th volume of al-Qaeda’s Encyclopedia of Jihad is devoted to chemical and biological weapons. Indeed, al-Qaeda has acknowledged that “biological weapons are considered the least complicated and easiest to manufacture of all weapons of mass destruction.”

Al-Qaeda is widely reported to have acquired legal pathogens via publicly available scientific sources. Before 9/11, al-Qaeda operatives reportedly purchased anthrax and plague from arms dealers in Kazakhstan, and the group has repeatedly urged followers to recruit microbiology and biotechnology experts. Following the Taliban’s fall, five al Qaeda biological weapons labs in Afghanistan tested positive for anthrax. Documents calculating aerial dispersal methods of anthrax via balloon were discovered in Kabul, along with anthrax spore concentrate at a nearby vaccine laboratory.

According to a lengthy fatwa commissioned by Osama bin Laden, jihadists are entitled to use weapons of mass destruction against the infidels, even if it means killing innocent women, children, and Muslims. No matter that these weapons cannot be specifically targeted. “[N]othing is a greater duty, after faith itself, than repelling an enemy attacker who sows corruption to religion and the world.” According to the fatwa, “No conditions limit this: one repels the enemy however one can.”

The sentiment might be reprehensible, but it is certainly not irrational. Even the most passionate terrorists must realize that conventional attacks are not bringing the West to its knees. The 9/11 strikes, the bombing of the Madrid and London subways, and numerous smaller attacks have all put civilization on edge, but history marches inexorably forward. A few thousand people can be killed, yet Western armies still traverse the world, and Western economies still determine winners and losers. From this perspective, the stakes must be raised. Bioviolence is perhaps the most dire, easiest means to execute existential danger.

### Yes Bioterror – Access

**Acquisition of bio-agents is feasible even without scientific capacity—ubiquitous nature of toxins ensure theft or trafficking**   
**CSIS, 6** (“STRATEGIC STUDY ON BIOTERRORISM, <http://csis.org/files/media/csis/pubs/061016_bioterrorism.pdf>) 

Bio-agents are readily available in the modern world and are relatively inexpensive to produce, store and transport from one country to another. At the same time, they can be toxic, transmissible and lethal. Some have a long period of incubation, and many items involved in biotechnology are dual use, thus difficult to ban. The physical security of biological agents is very poor in a number of facilities, with dangerous pathogens stored in unlocked kitchen refrigerators and simple fences without alarm systems surrounding the facilities. Lax border controls make illicit trafficking of drugs, arms and materials of weapons of mass destruction a possibility in regions such as Central Asia and the Caucusus, which is an area also traveled by terrorist groups. This report focuses on bio agents that may be available to terrorists rather than terrorism in general. How can we secure, collect or destroy strains that may pose a serious threat and prevent them from falling into the hands of terrorists? How can we channel the knowledge and experience of unemployed former Soviet bioscientists into benefits for the international community?

It is almost impossible to detect and deter the movement and/or transfer of a small quantity of dangerous infectious agents. It is very difficult to forecast consequences of a bioterrorist attack. For example, in the case of a sudden appearance of an epidemic type of avian flu H5N1, the epidemic will travel the globe quickly, while the development, testing and production of the necessary quantities of a vaccine against the avian flu will take at least 4 to 5 months; this will provide protection for 50% of the world population. Therefore, the protection of the population from epidemics and pandemics of dangerous diseases caused by natural outbreaks, man-made accidents or bioterrorist attacks is an issue of national and international concern. Given their proximity, Russia and other European countries are well placed to cooperate on improving communications and surveillance systems to reach hospitals and doctors, including in isolated areas.

There is no common definition of bioterrorism. A modified FBI definition refers to it as the “unlawful use of viruses, bacteria, fungi, toxins or other pathogenic material against a government, the civilian population, livestock, crops or any segment thereof, in furtherance of political, social and/or economic objectives.”13 An unofficial Russian definition states, “Bioterrorism is the use of dangerous biological agents for inflicting damage to the life and health of people in order to reach goals of a political and materialistic nature.” The possibilities for bioterrorism exist in water, land, food, air, and the human being itself. Much has been written about possible scenarios of pathogens in the major water reserves, the food supply, animal husbandry, the subway, sport arenas, railway stations, and places where large numbers of people congregate. The sources of water supplies are generally considered protected in the cities, though they are not failsafe. Certain safeguards are in place for food protection, though a number of experts have expressed concern in particular about possible contamination of milk.14

The experts in this Study agreed that the highest risk was that of air contamination, and they recognized that it is close to impossible to protect the population from being contaminated. The method of dissemination of bio agents depends on the kinds of diseases. Non-contagious diseases require complex dissemination equipment such as a spray system or an explosive device to create a large-scale effect. The anthrax letters delivered in the United States Senate Office Building showed that widespread psychological effects could be inflicted via a simple means of delivery and a small number of actual victims.

Various organizations have compiled lists of agents that are based on parameters such as lethality, toxicity, morbidity, and mortality. The United States Centers for Disease Control and Prevention has defined three categories of bioterrorism agents/diseases. Category A comprises high priority agents that “include organisms that pose a risk to national security because they can be easily disseminated or transmitted from person to person; result in high mortality rates and have the potential for major public health impact; might cause public panic and social disruption; and require special action for public health preparedness.” The CDC lists the following under Category A: Anthrax (*bacillus anthracis*), Botulism (*Clostridium botulinum toxin*), plague (*Yersinia pestis*), Smallpox (*variola major*), Tularemia (*Francisella tularensis*) and Viral hemorrhagic fevers (filoviruses [e.g. Ebola, Marburg] and arenaviruses [e.g. Lassa, Machupo]). Category B diseases/agents are defined as those that “are moderately easy to disseminate; result in moderate morbidity rates and low mortality rates; and require specific enhancements of CDC’s diagnostic capacity and enhanced disease surveillance.”

Category B includes: Brucellosis (*Brucella* species); Epsilon toxin of *Clostridium perfringens*; Food safety threats (e.g. *Salmonella* species, *Escherichia coli* 0157:H7, *Shigella);* Glanders *(Burkholderia mallei);* Melioidosis (*Burkholderia pseudomallei);* Psittacosis (*Chlamydia psittaci*); Q fever (*Coxiella burnetii*); Ricin toxin from *Ricinus communis* (castor beans); Staphylococcal enterotoxin B; Typhus fever (*Rickettsia prowazekii*); Viral encephalitis (alphaviruses [e.g. Venezuelan equine encephalitis, eastern equine encephalitis, western equine encephalitis]); Water safety threats (e.g. *Vibrio cholerae, Cryptosporidium parvum*).

The third highest priority agents, Category C, are defined as “emerging pathogens that could be engineered for mass dissemination in the future because of availability; ease of production and dissemination; and potential for high morbidity and mortality rates and major health impact.” The CDC list mentions emerging infectious diseases such as Nipah virus and hanta virus.15

Similar lists of pathogens exist for plants and animals.

Recent examples of diseases that have caused economic as well as psychological distress include foot and mouth disease in the United Kingdom in 2001, which cost an estimated $12 billion, SARS, which cost Canadian tourism almost $1 billion in lost revenue,16 and avian flu. Even the process of finding a disease capable of causing bioterrorism costs a great deal in research and development, money that could be spent on other activities such as treating tuberculosis, dengue fever or other severe diseases.

During the Soviet era the country had very strong scientific and engineering capabilities, with a high level of university training. President Yeltsin acknowledged in 1992 that the Soviet Union had violated the Biological Weapons Convention, which entered into force in 1975. The legacy of suspicion and mistrust between the former Soviet Union and the United States that persisted during the cold war has continued to this day. The economic decline that set in after the Soviet era resulted in poor physical security systems in facilities housing large collections of dangerous pathogens and a drop in salaries for an estimated 10,000 former Soviet biological scientists possessing relevant bioweapons expertise. 17 Many either changed careers or sought work in other countries, causing concern over the possibility of terrorists acquiring knowledge from them. Many Russian officials now talk about the “lost generation” of scientists: at the Russian Academy of Medical Sciences, for example, more than half the researchers are older than 45, and only 15 percent are between the age of 30 and 45.18

### Flexibility key

#### New statutory restrictions on executive authority invite Congressional micromanagement that encourages new global crises that prevents flexible response

**Nichols, 11** - professor of National Security Affairs at the U.S. Naval War College and a fellow of the International Security Program and the Project on Managing the Atom at the John F. Kennedy School of Government at Harvard University (Thomas, “Repeal the War Powers Resolution” World Politics Review, 5/25, <http://www.worldpoliticsreview.com/articles/8959/repeal-the-war-powers-resolution>

The debate over whether President Barack Obama violated the 1973 War Powers Resolution by committing U.S. forces to Operation Odyssey Dawn, including the drama of outraged legislators condemning yet another president for disregarding this curious law, was predictable. This most recent effort, like others before it, will probably come to nothing. But the legislation itself is dangerous, and the attempts to invoke it should stop. Republicans and Democrats now have an opportunity to remove the War Powers Resolution from our national life, and they should seize it.

There is an unavoidable tension in the Constitution between the president's role as commander in chief (Article II, section two) and the power of Congress to declare war (Article I, section eight). Although Congress controls defense funding and the Senate must approve treaties, the legislature has little power over the actual execution of military operations. In the wake of Vietnam, an angry Congress tried to settle the matter by legislative fiat with the War Powers Resolution, passed over then-President Richard Nixon's veto in 1973. The important clauses of the resolution allow Congress to direct the withdrawal of U.S. forces from action no later than 60 days after the outbreak of hostilities, unless Congress declares war, extends the 60-day period or is unable to meet due to enemy action, such as a nuclear attack.

This constitutes a "legislative veto" over executive authority, a concept ruled unconstitutional by the Supreme Court nearly 30 years ago. The War Powers Resolution itself has never been adjudicated by the Supreme Court, and from the 1983 invasion of Grenada to the 2011 NATO attack on Libya, presidents have traditionally ignored its requirements while eventually submitting reports that are "consistent with," but not in response to, the resolution. In the meantime, a familiar dance takes place, in which the president continues military action while any legislative opposition, otherwise powerless, briefly roils Washington for a week or two by threatening to invoke the resolution. It is a bipartisan game that is always ill-advised, even with the best of intentions.

More than 20 years ago, for example, President George H.W. Bush was convinced that Saddam Hussein's invasion of Kuwait had to be reversed or else his entire project of building a stable post-Cold War order would collapse. Republican Sen. John Heinz conferred at the time with a group of his GOP colleagues, who considered invoking the resolution. It was the law of the land, Heinz reasoned, even if his intention was to use it as a show of support for presidential action rather than as a legal roadblock. However, after considering the many constitutional and military risks involved, Heinz discarded the idea. Bush and the country would be spared the spectacle of a national debate over the president's powers, and Operation Desert Storm took place without further political complications.

As the aide who wrote the memo that Heinz studied, outlining the dangers posed to U.S. national security by the War Powers Resolution, I am intimately familiar with this particular historical "what if" moment.

The War Powers Resolution was a bad idea then, and it is a bad idea now. As satisfying as it might be in the short term to hobble the president, both parties would come to regret the consequences of such political combat, not least because it would shift greater responsibility for military action onto a Congress that in the long run may not want it -- a point raised by then-Rep. Lee Hamilton and others during a failed 1995 effort to repeal the resolution.

Worse, the War Powers Act is dangerous to our troops and to our national security. Imagine if it were ever taken seriously as an ongoing restriction on military action: A crisis arises, and the president responds by deploying U.S. forces, perhaps to support an ally or to enforce a United Nations resolution. The clock begins ticking, and after 60 days -- or sooner, if Congress so directs -- the president must recall U.S. troops. Thus, the resolution in effect tells any enemy that the best strategy against U.S. military force is to hunker down and wait out the 60-day period, in hopes that the resulting political fight in Washington will be messy enough to tear apart the nation and undermine Americans' will to fight.

It is folly to tell any potential enemy that he has 60 days to play one branch of the United States government off against another. Presidents answer to the American people and, in the most extreme instance, to the Senate during impeachment. These mechanisms do not need to be superseded by a contested law that invites the micromanagement of U.S. military operations by 535 additional commanders-in-chief.

Legislators from both parties now have a rare opportunity to exercise statesmanship. They can declare that their differences might be deep and principled, but that our political system cannot be shaken during a military conflict. A bipartisan move to repeal the War Powers Resolution -- and to protect the necessary ability of presidents to engage in military action now and in the future -- would send a powerful message to dictators and terrorists who have always placed their hopes, however vainly, in a mistaken belief that democracies are too divided and too weak to stop them. The War Powers Resolution should be shelved, once and for all, as a danger not to any one president or party, but to the security of the United States.