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#### Advantage 1 – United Nations

#### Scenario One – Terrorism

#### Risk of nuclear terrorism is real and high now

Bunn, et al, 10/2/13 [ Bunn, Matthew, Valentin Kuznetsov, Martin B. Malin, Yuri Morozov, Simon Saradzhyan, William H. Tobey, Viktor I. Yesin, and Pavel S. Zolotarev. "Steps to Prevent Nuclear Terrorism." Paper, Belfer Center for Science and International Affairs, Harvard Kennedy School, October 2, 2013, Matthew Bunn. Professor of the Practice of Public Policy at Harvard Kennedy School andCo-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Vice Admiral Valentin Kuznetsov (retired Russian Navy). Senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, Senior Military Representative of the Russian Ministry of Defense to NATO from 2002 to 2008. • Martin Malin. Executive Director of the Project on Managing the Atom at the Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, chief of department at the Center for Military-Strategic Studies at the General Staff of the Russian Armed Forces from 1995 to 2000. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer from 1993 to 2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration from 2006 to 2009. • Colonel General Viktor Yesin (retired Russian Armed Forces). Leading research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces from 1994 to 1996. • Major General Pavel Zolotarev (retired Russian Armed Forces). Deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, head of the Information and Analysis Center of the Russian Ministry of Defense from1993 to 1997, section head - deputy chief of staff of the Defense Council of Russia from 1997 to 1998.<http://belfercenter.ksg.harvard.edu/publication/23430/steps_to_prevent_nuclear_terrorism.html>]

I. Introduction In 2011, Harvard’s Belfer Center for Science and International Affairs and the Russian Academy of Sciences’ Institute for U.S. and Canadian Studies published “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism.” The assessment analyzed the means, motives, and access of would-be nuclear terrorists, and concluded that the threat of nuclear terrorism is urgent and real. The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated a consensus among political leaders from around the world that nuclear terrorism poses a serious threat to the peace, security, and prosperity of our planet. For any country, a terrorist attack with a nuclear device would be an immediate and catastrophic disaster, and the negative effects would reverberate around the world far beyond the location and moment of the detonation. Preventing a nuclear terrorist attack requires international cooperation to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • Nuclear terrorism is a real and urgent threat. Urgent actions are required to reduce the risk. The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in **radical interpretations of Islam;** by the spread of information about the decades-old technology of nuclear weapons; by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world. • Making a crude nuclear bomb would not be easy, but is potentially within the capabilities of a technically sophisticated terrorist group, as numerous government studies have confirmed. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). Terrorists could, however, cut open a stolen nuclear weapon and make use of its nuclear material for a bomb of their own. • The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • Al-Qaeda has sought nuclear weapons for almost two decades. The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise. Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use. While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, there is no sign the group has abandoned its nuclear ambitions. On the contrary, leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

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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.

#### Extinction---equivalent to full-scale nuclear war

Owen B. Toon 7, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

#### Congress key to multilateral coordination necessary to combat terrorism

McGuinness, 09 [Copyright (c) 2009 Willamette Law Review Willamette Law Review Spring, 2009 Willamette Law Review 45 Willamette L. Rev. 417 LENGTH: 15253 words PRESIDENTIAL POWER IN THE 21ST CENTURY SYMPOSIUM: ARTICLE: THE PRESIDENT, CONGRESS AND THE SECURITY COUNCIL: COUNTERTERRORISM AND THE USE OF FORCE THROUGH THE INTERNATIONALIST LENS NAME: Margaret E. McGuinness\* BIO: \* Associate Professor, University of Missouri Law School, p. lexis]

This multilateralism should not be surprising from an instrumental perspective. Effective responses to terrorism have required, and will continue to require, both congressional participation domestically and multilateral coordination internationally. Foreign policy unilateralism and avoidance of the central international mechanisms for cooperation is costly to the United States - in terms of both reputation and ability to defeat terrorism. An effective counterterrorism policy requires an adoption of the full range of tools available to the United States and other governments, individually and collectively. Such tools include promoting civil society, supporting development programs (economic, political and educational) aimed to alleviate conditions that breed recruiting grounds for terrorists, coordinating law enforcement across borders (including monitoring of persons, capital and materiel used in support of terrorism), and applying the use of force and all other available tools of warfare to find, seize and, in some cases, target and kill terrorists. n16 In the absence of a separate global counterterrorism organization, n17 these measures taken at the Security Council represent the central multilateral response to global terrorism, and the United States is likely to continue to support strengthening the U.N. capacity in counterterrorism. First, the U.N. Security Council offers a unique mechanism for regulating those behaviors that facilitate and support the growth of transnational terrorism. The Security Council possesses powerful tools for responding to terrorism - the ability to create binding law on member states and to enforce that law, including, imposing economic and political sanctions and authorizing the use of force under the auspices of Chapter VII of the U.N. Charter. n18 The [\*423] U.S. wields considerable influence - political and structural, through the power of the veto - over these law-making and enforcement tools. Second, the United Nations (as well as other regional and international organizations) has the ability to overcome the coordination and cooperation problems that arise from free rider and collective action in the counterterrorism context. Particular issues include the problem of defection in the area of sanctions, coordination and cooperation in the monitoring of peoples (including standardization of approaches to immigration and asylum issues), and coordinated legal and policy approaches to human rights safeguards in the face of terrorism. n19 The complexity of the transnational terrorism problem means that unilateralism cannot be part of the broad strategic answer, though it has been and will continue to be a tactical answer in particular places. n20 Third, acting with and through the U.N. provides the United States broader international "buy-in" for its own counterterrorism programs. The imprimatur of the U.N, brings with it the legitimacy effects of acting under international law, while at the same time permitting the U.S. to pursue multilaterally those actions (e.g., creating financial watch lists) that it also pursues unilaterally and on an ad hoc cooperative basis with friendly states. Acting through the Council permits the U.S. to more broadly influence the normative development of counterterrorism law, explicitly linking the threat from non-state terrorist actors to the threat to international peace and security, and developing a set of international legal norms about what actions states may take against terrorism. Fourth, multilateral institutions offer a meaningful way to make progress that does not involve the unique U.S. imprimatur, which, in some places, has caused more long-term damage than it has gained security. The United Nations is not always popular around the world either, but in places where it is relatively more popular than, for example the United States of the United Kingdom, it is likely to be [\*424] relatively more effective across a range of peacekeeping, national building and civil society programs. n21 Finally, the broadly predicted general dilution and diminishment of the relative political power of the United States will force the U.S. back toward greater engagement at the U.N. and other multilateral spaces in order to leverage options and resources. n22 For purely instrumentalist reasons, therefore, the U.N. may be the best tool for counterterrorism responses in particular places. n23

#### Scenario Two – United Nations

#### The UN is our best hope for transnational problem solving and legitimacy

Hirsh, 9/24/13 [“Why the United Nations Is Suddenly Relevant”, Michael Hirsh is chief correspondent for National Journal. He also contributes to 2012 Decoded. Hirsh previously served as the senior editor and national economics correspondent for Newsweek, based in its Washington bureau. He was also Newsweek’s Washington web editor and authored a weekly column, <http://www.defenseone.com/politics/2013/09/why-united-nations-suddenly-relevant/70738/?oref=d-skybox>]

That's especially the view in Washington, which more often than not sees the big green building on the East River as a giant, musty encumbrance. But suddenly the United Nations has become freshly relevant, more so than it has been in years, certainly for all of Obama's first term. And new U.N. Ambassador Samantha Power, who is largely untested as a diplomat, finds herself in a very hot spotlight, one that might even make her predecessor, new National Security Advisor Susan Rice, a touch regretful that she departed New York so soon. Indeed, in coming months the actions of the U.N. Security Council could determine Obama's major foreign-policy legacy, even more so than his takedown of Osama bin Laden, on the long-festering issues of Iran's nuclear program and Syria's civil war. In both cases a legal dependency on the U.N. Charter and previous Security Council resolutions will be crucial to success. It already seems clear that it was, more than anything, the sharp bite of U.N.-approved sanctions on Iran that led to the surprise election of moderate President Hassan Rouhani, who has practically tripped over himself offering to negotiate and whose much-anticipated speech Tuesday is expected to give clues as to his flexibility. It is also clear that previous U.N. Security Council resolutions dating back to 2006 and demanding that Tehran suspend uranium enrichment will, more than anything else, put Rouhani's sincerity and internationalism to the test. On Syria -- an issue on which Obama has looked consistently weak for two years -- it is also a U.N. Security Council resolution that will enforce the deus-ex-machina deal that Moscow and Washington suddenly already agreed upon to dismantle Bashar al–Assad's chemical weapons. [Read more: Will Obama and Rouhani Meet Face-to-Face at the United Nations?] The Russians are resisting any mention of force in the new resolution, and Obama has pledged to keep open his earlier threat to attack Syria unilaterally if it does not comply. But even here, says John Bellinger, the former legal counsel to the State Department, the president's best argument rests on the U.N. charter's "Chapter 7" guarantee of the right to "collective self-defense." Bellinger, who served under George W. Bush, says the previous president might have won more support in Iraq had he done something similar. "My advice to Obama would be same: Rather than rely on new and untested theories such as preemption or humanitarian intervention, emphasize more a reliance on the U.N. charter itself." American policy-makers have rarely paid much respect to the U.N. General Assembly, an obstreperous talking shop built on the pretense that the vote of Zimbabwe or Liechtenstein is as important as that of the United States. U.S. presidents have also grown impatient with the Security Council, which Franklin Roosevelt set up toward the end of World War II as a global policing body. Presidents, including Obama, tend to see the Security Council as a stagnant pool of lost great-power ambitions, a pretend-place where a Russia can puff itself up into an image of its former self. Under Vladimir Putin, Moscow has often done just that, vetoing every resolution that might have authorized an intervention in Syria over the last two years. But now Russia has publicly committed itself to a U.N.-authorized dismantling of Syria's chemical weapons—and if Moscow follows through, that will achieve the double victory of curtailing Assad's activities and co-opting an increasingly roguish Russia back, to some degree, into the international system. The fact is that, as Obama is discovering anew, the Security Council remains the main repository for international legitimacy—which is another way of saying it's the most effective way of getting other nations to ally with the United States. As we are finding out anew, the growing body of U.N. Security Council resolutions is what gives American foreign-policy goals the heft of international law, rather than the stigma of a diktat from Washington.

#### Now key – key to effective conflict resolution

UNNC, 9/28/ 13 [United Nations News Center, “UN must reflect the world as it is, not as it used to be, say Ministers from Germany, Liechtenstein”, http://www.un.org/apps/news/story.asp?NewsID=46123&Cr=general+debate&Cr1=#.UkiQ\_FM6z3M]

28 September 2013 – Germany's Foreign Minister underscored the need for United Nations reform in his address to the General Assembly, saying the Organization must be strengthened so it can play the vital role intended for it and reflect the realities of today's world. “**The authority** of the United Nations depends on its being representative,” Guido Westerwelle told the high-level debate at UN Headquarters. “A Security Council without permanent seats for Africa and Latin America does not reflect the realities of today's world. A Security Council in which Asia, that emerging and highly populated region, is represented with only one single permanent seat does not reflect the realities of today's world.” Mr. Westerwelle said Germany, with its partners Japan, India and Brazil, is prepared to assume greater responsibility. “We are seeking reform of the United Nations so that its power to build consensus, establish global rules and act effectively in response to crises and conflicts is demonstrably strengthened,” he stated.

#### The impact is extinction—even if the UN has flaws, the alternative is worse

Tharooor, 03 [Shashi Tharoor, is the [Indian](http://en.wikipedia.org/wiki/India) [Minister of State](http://en.wikipedia.org/wiki/Minister_of_State#Minor_government_ranks) for Human Resource Development, [Member of Parliament](http://en.wikipedia.org/wiki/Member_of_Parliament) (MP) from the [Thiruvananthapuram](http://en.wikipedia.org/wiki/Thiruvananthapuram_%28Lok_Sabha_constituency%29) of [Kerala](http://en.wikipedia.org/wiki/Kerala), an [author](http://en.wikipedia.org/wiki/Author) and a [columnist](http://en.wikipedia.org/wiki/Columnist), Tharoor subsequently obtained a [Bachelor of Arts](http://en.wikipedia.org/wiki/Bachelor_of_Arts) degree in history from [St. Stephen's College](http://en.wikipedia.org/wiki/St._Stephen%27s_College,_Delhi) in [Delhi](http://en.wikipedia.org/wiki/Delhi).[[5]](http://en.wikipedia.org/wiki/Shashi_Tharoor#cite_note-5) and went on to pursue graduate studies at [The Fletcher School of Law and Diplomacy](http://en.wikipedia.org/wiki/The_Fletcher_School_of_Law_and_Diplomacy) at [Tufts University](http://en.wikipedia.org/wiki/Tufts_University), from where he obtained an M.A in 1976, an M.A.L.D in 1977 and a Ph.D. in 1979 at age 23.[[6]](http://en.wikipedia.org/wiki/Shashi_Tharoor#cite_note-Tufts-6), <http://www.cfr.org/world/why-america-still-needs-united-nations/p7567>]

Summary: Multilateralism is a means, not an end, and there is no more multilateral body than the UN. That may make it unwieldy at times, but the UN's inclusiveness is the key to the legitimacy only it can confer. The organization thus remains an essential force in international politics, and one the United States benefits from greatly. THE POWER OF LEGITIMACY In September 2002, a radical new document declared that "no nation can build a safer, better world alone." These words came not from some utopian internationalist or ivory-tower academic, but from the new National Security Strategy of the United States. For all its underpinnings in realpolitik, the strategy committed the United States to multilateralism. This statement should not have been surprising, for multilateralism, of course, is not only a means but an end. And for good reason: in international affairs, the choice of method can serve to advertise a country's good faith or disinterestedness. Most states act both unilaterally and multilaterally at times: the former in defense of their national security or in their immediate backyard, the latter in pursuit of global causes. The larger a country's backyard, however, the greater the temptation to act unilaterally across it -- a problem most acute in the case of the United States. But the more far-reaching the issue and the greater the number of countries affected, the less sufficient unilateralism proves, and the less viable it becomes. Hence the ongoing need for multilateralism -- which the U.S. National Security Strategy seemed to recognize. The United Nations is the preeminent institution of multilateralism. It provides a forum where sovereign states can come together to share burdens, address common problems, and seize common opportunities. The UN helps establish the norms that many countries -- including the United States -- would like everyone to live by. Throughout its history, the United States has seen the advantages of living in a world organized according to laws, values, and principles; in fact, the republic was not yet 30 years old when it first went to war in defense of international law (attacking the Barbary pirates in 1804), and it has done so multiple times since, including in the first Gulf War. The UN, for all its imperfections -- real and perceived -- reflects this American preference for an ordered world. That Washington has often used force on behalf of such principles makes good political sense. After all, acting in the name of international law is always preferable to acting in the name of national security. Everyone has a stake in the former, and so couching U.S. action in terms of international law universalizes American interests and comforts potential allies. When American actions seem driven by U.S. national security imperatives alone, partners can prove hard to find -- as became clear when, in marked contrast to the first Gulf War, only a small "coalition of the willing" joined Washington the second time around in Iraq. Working within the UN allows the United States to maximize what Joseph Nye calls its "soft power" -- the ability to attract and persuade others to adopt the American agenda -- rather than relying purely on the dissuasive or coercive "hard power" of military force. Global challenges also require global solutions, and few indeed are the situations in which the United States or any other country can act completely alone. This truism is currently being confirmed in Iraq, where Washington is discovering that it is better at winning wars than constructing peace. The limitations of military strength in nation building are readily apparent; as Talleyrand pointed out, the one thing you cannot do with a bayonet is to sit on it. Equally important, however, is the need for legitimacy, and here again the UN has proven invaluable. The organization's role in legitimizing state action has been both its most cherished function and, in the United States, its most controversial. As the world's preeminent international organization, the UN embodies world opinion, or at least the opinion of the world's legally constituted states. When the UN Security Council passes a resolution, it is seen as speaking for (and in the interests of) humanity as a whole, and in so doing it confers a legitimacy that is respected by the world's governments, and usually by their publics. When the resolution in question is passed under Chapter VII of the charter -- that document's enforcement provisions -- it becomes legally binding on all member states. The composition of the council that passes a particular resolution is no more relevant to its legitimacy than that of a national parliament that passes a law; congressional legislation, by the same logic, is not less binding on Americans if the majority that votes for it comes overwhelmingly from small states. The legitimacy of the UN inheres in its universality and not in its structural details, which have long been subject to the clamor for reform. Some Americans have scorned the status and conduct of many of the Security Council members that failed to support the United States on Iraq. But this unseemly sneering over the right of Angola, Cameroon, or Guinea to pass judgment in the council overlooks the valuable contribution their presence makes. The election of small countries to the council bolsters its legitimacy by enhancing its role as a repository of world opinion. Universality of membership also allows the world to view the UN as something more than the sum of its parts, as an entity that transcends the interests of any one member state. The UN guards the vital principles entrenched in its charter, notably the sovereign equality of states and the inadmissibility of interference in their internal affairs. It is precisely because the UN is the chief guardian of both these sacrosanct principles that it alone is allowed to approve derogations from them. Thus when the UN, in particular the Security Council, legislates an intervention in a sovereign state, it is still seen as upholding the basic principles even while approving a departure from them. When an individual state acts in defiance of the UN, on the other hand, it merely violates these principles. This is why so many countries, including the most powerful ones, take care to embed their actions within the framework of the principles and purposes of the UN Charter. For examples of this, one need only peruse a random selection of speeches by countries explaining their votes on the Security Council, especially those concerning military action. The value of internationally recognized principles resonates across the globe and has been reified through 58 years of repetition -- including last March, when the council debated Iraq. SHOWDOWN IN NEW YORK To suggest -- as did some critics of the UN during the Iraq crisis -- that the organization has become irrelevant overlooks the message President George W. Bush himself sent when he appeared before the General Assembly in September 2002. In calling on the Security Council to take action, Bush framed the problem of Iraq as a question not of what the United States (unilaterally) wanted, but of how to implement Security Council resolutions. Indeed, these resolutions were at the heart of the U.S. case. Had the Security Council been able to agree that force was warranted, it would have provided unique (and incontestable) legitimacy for U.S. military action. The fact that the council did not ultimately agree, however, strengthens, rather than dilutes, the rationale for approaching it in such situations. The council's refusal to serve as a rubber stamp for Washington will give any future support it lends to the United States greater credibility. Council resolutions do not serve only to codify the acceptable in the eyes of the world; they also, quite directly, lay down the law. In fact, several countries, from Norway to India, do not or cannot (as a matter of politics, policy, or constitutional law) commit forces overseas without the council's explicit authorization. Such a practice ensures that these countries will not be drawn into military adventures at the behest of one or a handful of powerful states. They send troops only when the Security Council, speaking in the name of the world as a whole, blesses an enterprise. Nonetheless, since the Iraq crisis, some critics have suggested that "coalitions of the willing" will eventually eliminate the need for formal structures such as the UN. "Multilateralism á la carte," the thinking goes, will replace "multilateralism á la charte." But even ad hoc coalitions require structure: many states, when asked by Washington to contribute troops for Iraq, have hesitated to do so without the sanction of a UN resolution or a UN-authorized command structure. International institutions give the United States' potential partners a framework within which they can feel empowered on (at least notionally) equal terms -- and without which they are not willing to participate. Put another way, the difference between a UN operation, in which everyone wears a blue helmet, and a "coalition of the willing" led by one big power is similar to that between a police squad and a posse. Posses are more difficult to find and to fund than are police. Similarly, developing countries in any coalition need financing in order to play their part, and such financing is more easily provided through the UN's agreed cost-sharing formula. Unilateralism is always more expensive than its alternative, and in today's tight world economy, the costs of international unilateralism may no longer be sustainable. Even when a Security Council resolution is not legally required for an action, the UN's imprimatur can still prove extremely useful for the United States. A council decision does not just spread expense and political risk, by diluting Washington's responsibility for a course of action that might provoke resentment or hostility. It is also easier for many governments to sell a policy to their publics if they can describe it as a response to a UN resolution, instead of to an American request. The United States has already learned this lesson: for example, when it has tried to prompt countries to revise and update their domestic security procedures or laws on terrorism, it has discovered that governments are often happier to receive the same American expert as a UN adviser than as a U.S. one. In fact, part of the value of the UN (including for Washington) is the respect in which its members hold the body. Such respect has permitted the United States, on numerous occasions, to advance its specific interests under the cover of international law. For example, UN sanctions on Libya helped the United States achieve a settlement over the Lockerbie bombing. And after the attacks of September 11, 2001, the Security Council's two subsequent resolutions provided an international framework for the global battle against terrorism. Resolution 1373 required nations to interdict arms flows and financial transfers to suspected terrorist groups, report on terrorists' movements, and update national legislation to fight them. Without the legal authority of a binding Security Council resolution, Washington would have been hard-pressed to obtain such cooperation "retail" from 191 individual states, and it would have taken decades to negotiate and ratify separate treaties and conventions imposing the same standards on all countries. As such examples demonstrate, it is clearly not in the U.S. interest to discredit the UN or the Security Council. For every rare occasion when the council thwarts Washington, there are a dozen more when it acts in accordance with U.S. wishes and compels other countries to do the same. To marginalize the council, then, would be to blunt a vital arrow in the U.S. diplomaticquiver**.**  BEYOND LIMITS What about the Security Council's structural deficiencies? For all the carping about its outdated composition -- which, by common consensus, reflects the geopolitical realities of 1945 rather than 2003 -- no other body has acquired the kind of legitimacy it brings to bear on world affairs. The council may need reform, therefore, but until member states agree on how to go about making changes, it remains the only global body with responsibility for maintaining international peace and security. Suggestions that the UN should be replaced -- by a coalition of democracies, for example -- overlook the fact that during the Iraq debate, the most vigorous resistance to the United States in the council came from other democracies. Nor is NATO a feasible alternative to the council, because its legitimacy is geographically limited, as is that of other regional organizations. NATO authorization might have been deemed sufficient for the Kosovo campaign. But in that war, the target was another European state, Yugoslavia. NATO's imprimatur would not have been enough to justify military action in Iraq, which is why the United States and the United Kingdom tried so hard to get the Security Council's benediction for that action. In any case, the council's final vote (or lack thereof) on Iraq was not the only gauge of its relevance to that situation. Just four years ago, when NATO bombed Yugoslavia without even referring to the council (let alone securing its approval), many critics similarly argued that the UN had become irrelevant. But the Kosovo question soon came up again at the Security Council, first when an unsuccessful attempt was made to condemn the bombing, and then when arrangements had to be made to administer the province after the war. Only the Security Council could have approved the arrangements so as to confer on them international legitimacy and encourage all nations to extend their support and resources. And only one body was trusted enough to run the civilian administration of Kosovo: the United Nations. The same pattern was not followed precisely in the case of Iraq, but the events were similar. Resolution 1483, adopted unanimously on May 22, granted the UN a significant role in postwar Iraq. That the United States chose to give the UN such a prominent position reflects not just British pressure but also Washington's own recognition that it needs the world body. Indeed, the very fact that the United States submitted the resolution to the Security Council was an acknowledgment by Washington that there is, in Secretary-General Kofi Annan's words, no substitute for the unique legitimacy provided by the UN. The body might have been written off during the war. But as with Kosovo, it was quickly found to be essential to the ensuing peace. Of course, peace can be kept in many ways, and Kosovo, East Timor, Afghanistan, and now Iraq offer four different models for how the UN can engage in postconflict situations. But peacekeeping (which includes mediation, monitoring, and disarmament) remains exactly the kind of mission where using the UN has advantages for Washington that greatly outweigh the negatives. First, there is the obvious attraction of burden-sharing: UN peacekeeping allows other countries to help shoulder the United States' responsibility for maintaining peace around the world. Second, despite some well-publicized failures, UN peacekeeping works. The UN's "blue helmets" won the Nobel Peace Prize in 1988; since then, they have brought peace and democracy to Namibia, Cambodia, El Salvador, Mozambique, and East Timor; helped ease the U.S. burden after regime changes in Haiti and Afghanistan; and policed largely bloodless stalemates from Cyprus to the Golan Heights to Western Sahara. Third, UN peacekeeping is highly cost-effective. The UN is used to running operations on a shoestring, and it spends less per year on peacekeeping worldwide than is spent on the budgets of the New York City Fire and Police Departments. UN peacekeeping is also far cheaper than the alternative, which is war. Two days of Operation Desert Storm in 1991 cost more than the entire UN peacekeeping budget that year, and one week of Operation Iraqi Freedom would amply pay for all UN peacekeeping for 2003. The UN operation that ended the Iran-Iraq War cost less annually than the crude oil carried in two supertankers. Considering how many supertankers were placed at risk during that ruinous conflict, this makes peacekeeping an extraordinary bargain. None of this is to deny that the Security Council's record has been mixed. The body has acted unwisely at times and failed to act altogether at others: one need only think of the fate of the "safe areas" in Bosnia and the genocide in Rwanda for instances of each. The council has also sometimes been too divided to succeed, as was the case in early 2003 over Iraq. And all too often, member states have passed resolutions they had no intention of implementing. But the UN, at its best, is only a mirror of the world: it reflects divisions and disagreements as well as hopes and convictions. Sometimes it only muddles through. As Dag Hammarskjöld, the UN's second secretary-general, put it, the UN was not created to take humanity to heaven but to save it from hell. And this it has done innumerable times, especially during the Cold War, when it prevented regional or local conflicts from igniting a superpower conflagration. To suggest, on the basis of the disagreement over Iraq, that the Security Council has become dysfunctional or irrelevant is to greatly distort the record by viewing it through the prism of just one issue. Even while disagreeing on Iraq, the members of the Security Council unanimously agreed on a host of other vital issues, from Congo to Côte d'Ivoire, from Cyprus to Afghanistan. Indeed, the Security Council remains on the whole a remarkably harmonious body. Authorizing wars has never been among its principal responsibilities -- only twice in its 58 years of existence has the council explicitly done so -- and it seems unduly harsh to condemn it solely over its handling of so rare a challenge. In any case, it would be folly to discredit an entire institution for a disagreement among its members. One would not close down the Senate (or even the Texas legislature) because its members failed to agree on one bill. The UN's record of success and failure is no worse than that of most representative national institutions, yet its detractors seem to expect the UN to succeed (or at least to agree with the United States) all the time. Too often, the UN's critics seem to miss another fundamental characteristic of the world body: the way it functions both as a stage and as an actor. On the one hand, the UN is a stage on which its member states declaim their differences and their convergences. Yet the UN is also an actor (particularly in the person of the secretary-general, his staff, agencies, and operations) that executes the policies made on its stage. The general public usually fails to see this distinction and views the UN as a shapeless aggregation. Sins (of omission or commission) committed by individual governments on the UN stage are thus routinely blamed on the organization itself. Sometimes member states deliberately contribute to this confusion, as when American officials blamed the UN for not preventing genocide in Rwanda -- despite the fact that Washington itself had blocked the Security Council from taking action in that crisis. Indeed, one of the more unpleasant, if convenient, uses to which the UN has regularly been put has been to serve as a pliant scapegoat for the failures of its member states. Former Secretary-General Boutros Boutros-Ghali ruefully noted this point when alleged UN deficiencies were blamed for the purely American-made disaster in Mogadishu in October 1993. And Annan has often joked that the abbreviation by which he is known inside the organization -- "SG" -- stands for "scapegoat," not "secretary-general." There is, sadly, considerable utility in having an institution that, by embodying the collective will (or lack thereof) of 191 member states, can safely be blamed for the errors that no individual state could politically afford to admit. But those who need a whipping boy must be careful not to flog him to death. IN IT TOGETHER The UN's relevance does not stand or fall on its conduct on any one issue. When the crisis has passed, the world will still be left with, to use Annan's phrase, innumerable "problems without passports" -- threats such as the proliferation of weapons of mass destruction (WMD), the degradation of our common environment, contagious disease and chronic starvation, human rights and human wrongs, mass illiteracy and massive displacement. These are problems that no onecountry, however powerful, can solve alone. The problems are the shared responsibility of humankind and cry out for solutions that, like the problems themselves, also cross frontiers. The UN exists to find these solutions through the common endeavor of all states. It is the indispensable global organization for a globalizing world. Large portions of the world's population require the UN's assistance to surmount problems they cannot overcome on their own. As these words are written, civil war rages in Congo and Liberia and sputters in Côte d'Ivoire, while long-running conflicts may be close to permanent solution in Cyprus and Sierra Leone. The arduous task of nation building proceeds fitfully in Afghanistan, the Balkans, East Timor, and Iraq. Twenty million refugees and displaced persons, from Palestine to Liberia and beyond, depend on the UN for shelter and succor. Decades of development in Africa are being wiped out by the scourge of hiv/aids (and its deadly interaction with famine and drought), and the Millennium Development Goals -- agreed on with much fanfare in September 2000, at the UN's Millennium Summit, the largest gathering of heads of government in human history -- remain unfulfilled. Too many countries still lack the wherewithal to eliminate poverty, educate girls, safeguard health, and provide their people with clean drinking water. If the UN did not exist to help tackle these problems, they would undoubtedly end up on the doorstep of the world's only superpower. The UN is also essential to Americans' pursuit of their own prosperity. Today, whether one is from Tashkent or Tallahassee, it is simply not realistic to think only in terms of one's own country. Global forces press in from every conceivable direction; people, goods, and ideas cross borders and cover vast distances with ever greater frequency, speed, and ease. The Internet is emblematic of an era in which what happens in Southeast Asia or southern Africa -- from democratic advances to deforestation to the fight against aids -- can affect Americans. As has been observed about water pollution, we all live downstream now. Thus U.S. foreign policy today has become as much a matter of managing global issues as managing bilateral ones. At the same time, the concept of the nation-state as self-sufficient has also weakened; although the state remains the primary political unit, most citizens now instinctively understand that it cannot do everything on its own. To function in the world, people increasingly have to deal with institutions and individuals beyond their country's borders. American jobs depend not only on local firms and factories, but also on faraway markets, grants of licenses and access from foreign governments, international trade rules that ensure the free movement of goods and persons, and international financial institutions that ensure stability. There are thus few unilateralists in the American business community. Americans' safety, meanwhile, depends not only on local police forces, but also on guarding against the global spread of pollution, disease, terror, illegal drugs, and WMD. As the World Health Organization's successful battle against the dreaded sars epidemic has demonstrated, "problems without passports" are those that only international action can solve. Fortunately, the UN and its broad family of agencies have, in nearly six decades of life, built a remarkable record of expertise and achievement on these issues. The UN has brought humanitarian relief to millions in need and helped people rebuild their countries from the ruins of war. It has challenged poverty, fought apartheid, protected the rights of children, promoted decolonization and democracy, and placed environmental and gender issues at the top of the world's agenda. These are no small achievements, and represent issues the United States cannot afford to neglect. The United Nations is a valuable antidote to the tendency to disregard the problems of the periphery -- the kinds of problems Americans may prefer not to deal with but that are impossible to ignore. Handling them multilaterally is the obvious way to ensure they are tackled; it is also the only way. Americans will be safer in a world improved by the UN's efforts, which will be needed long after Iraq has passed from the headlines. KEEPING GULLIVER ON BOARD The exercise of American power may well be the central issue in world politics today, but that power is only enhanced if its use isperceived as legitimate**.** Ironically, although many in Washington distrust the world body, many abroad think the Security Council is too much in thrall to its most powerful member. The debates over Iraq proved that that is not always the case; but even if it were, it is far better to have a world organization that is anchored in geopolitical reality than one that is too detached from the verities of global power to be effective. A UN that provides a vital political and diplomatic framework for the actions of its most powerful member, while casting them in the context of international law and legitimacy (and bringing to bear on them the perspectives and concerns of its universal membership) is a UN that remains essential to the world in which we live. The goals of the charter, however, cannot be met without embracing the fundamental premise that President Harry Truman enunciated in 1945: We all have to recognize that no matter how great our strength, we must deny ourselves the license to do always as we please. No one nation ... can or should expect any special privilege which harms any other nation. ... Unless we are all willing to pay that price, no organization for world peace can accomplish its purpose. And what a reasonable price that is! The UN, from the start, assumed the willingness of its members to accept restraints on their own short-term goals and policies by subordinating their actions to internationally agreed rules and procedures, in the broader long-term interests of world order. This was an explicit alternative to the model of past centuries, when strong states developed their military power to enforce their politics, and weak states took refuge in alliances with stronger ones. This formula guaranteed large-scale warfare; as Franklin Roosevelt put it to both houses of Congress after the Allied conference at Yalta, the UN would replace the arms races, military alliances, balance-of-power politics, and "all the arrangements that had led to war" so often in the past. The UN was meant to help create a world in which its member states would overcome their vulnerabilities by embedding themselves in international institutions, where the use of force would be subjected to the constraints of international law. Power politics would not disappear from the face of the earth but would be practiced with due regard for universally upheld rules and norms. Such a system also offered the United States -- then, as now, the world's unchallenged superpower -- the assurance that other countries would not feel the need to develop coalitions to balance its power. Instead, the UN provided a framework for them to work in partnership with the United States.

#### Even if it fails, maintaining it as a viable last resort is key to planetary survival

Schlesinger, 03 (Steven, Dir. world Policy Institute @ New School U., The Record (Kitchener-Waterloo, Ontario), “UN is the world's emergency room; Its survival requires U.S. commitment”, 10-4, L/N)

The ultimate outcome of the San Francisco Conference is still not known. However, what happened there that produced the last of these grand compacts, the United Nations, has already had an enormous impact over the last six decades. Indeed, the founding of the United Nations in the age of nuclear weaponry -- far more sinister circumstances than any faced by those earlier meetings -- is affecting the survival or demise of humanity. The United Nations and its labours have become the background noise of our global age. It is truly ubiquitous. It has overseen 40 years of decolonization around the planet; sent peacekeepers to places such as Cambodia, Cyprus and Sinai; helped end apartheid in South Africa via sanctions. The United Nations' World Health Organization was critical in eradicating smallpox and is on the verge of stamping out polio; its World Food Program feeds hungry people in Africa; its UN Development Program sends more multilateral aid dollars abroad than any nation. People forget that before the United Nations' founding, there was no truly functioning international organization (except for the creaky, faltering League of Nations). This meant that for many decades, there was no place for nations to go in global crises. Today, after half a century of the United Nations, few of us are unaware that this aging experiment in global society exists and has given some modicum of hope to the world -- despite a dearth of financial resources and the brickbats tossed at it by American politicians. It has become the world's geopolitical emergency room. The question is whether it can survive.

#### Explicit Congressional involvement is vital to solidify US commitment to the UN – US influence spills over

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The Value of More Explicit Ex Ante Congressional Involvement in U.S./U.N. Counterterrorism Measures **A shift** in thinking **toward involving** the United States Congress in a more formal method of ex ante internal consultation on U.S. activities at the U.N. Security Council would have several salutary effects. First, it would reinforce and solidify the acceptance of U.N. Security Council substantive norms within the U.S. legal and political system. Second, it would create opportunities for capacity building within the U.N. Security Council on the question of parliamentary and legislative participation (which itself is an important dimension of the comprehensive counterterrorism policy, as well as important to addressing the democracy gap). This, in turn, has the potential to influence efforts to increase democratic accountability of other member states. Third, increased involvement of the U.S. Congress can also influence accountability and coordination of other transnational actors (in particular NGOs) who can "game" the accountability gap at the international and domestic level. Fourth, it may increase "buy-in" by the U.S. through Congress's power of the purse. The United States provides 25% of the United Nations' peacekeeping budget and already provides important outside accountability for management problems at the U.N. n134 Increased consultation can serve to sharpen those processes by providing early congressional input into the form and financing of particular U.N. measures. Moreover, democratically grounded participation in U.N. counterterrorism policies will enable the United States to demonstrate its commitment to protection of human rights as consistent with counterterrorism policy. The U.N. Charter balances the mandate of maintaining peace and security with the mandate to uphold human rights and human dignity. n135 By recognizing that counterterrorism policy implicates the dual pillars of the U.N. Charter, the United States will go a long way in addressing the concerns of the human rights community regarding particular past national policies (e.g., [\*448] communications monitoring, creation of watch lists, and administrative or preventative detention). n136 Terrorist groups are allied against the universality of human rights espoused by the U.N. Charter and the central human rights instruments of the human rights system. n137 By working within that system to correct its problems and support its infrastructure, the United States will create a more effective bulwark against the nihilist ideologies of those terrorist and jihadist groups. Finally, the strongest argument for more robust and ongoing congressional participation in Council military activities is that failure to secure and sustain strong domestic support for American involvement in U.N. operations would leave U.S. counterterrorism policy especially vulnerable to sudden reversal by Congress - and potentially also by the courts. n138 While building a consensus in support of particular policies is not easy, Congress can serve as an early warning for programs that raise particular domestic constitutional or human rights concerns. Congressional backlash that can occur when consultation does not take place can be costly. n139 Judicial reversal, as with the Kadi case in Europe, is also costly to the effectiveness of Council measures. Adding more voices to the process before detailed enforcement measures are put in place may be one way to avoid these reversals.

#### Strengthened UN key to multilateralism

UNNC, 9/28/13 [United Nations News Center,‘Multilateral efforts must guide our quest for peace and security,’ India tells UNhttp://www.un.org/apps/news/story.asp?NewsID=46116&Cr=multilateral&Cr1=#.UkiRy1M6z3M]

28 September 2013 – At a time when the world faces multiple challenges, the Prime Minister of India today urged a renewed focus on the role of the United Nations as a forum for multilateral action to ensure inclusive growth and development, and to combat terrorism and other “grave” security threats. Warning that the world today appears equally sceptical both of the capacity of the UN to achieve its goals and of the state of international relations in general, Manmohan Singh told the General Assembly that for multilateralism to remain relevant and effective, multilateral institutions need to be reformed. “Multilateral efforts must guide our quest for peace and security, wherever they are threatened. And the centrality and contribution of the UN system to development must be restored,” he said. **“The place to begin is right here**,” Mr. Singh declared, telling delegations at the Assembly’s annual General Debate that the UN Security Council must be reformed and restructured to reflect current political realities, particularly to include more developing countries as both permanent and non-permanent members.

#### Proliferation risks extinction; multilateral cooperation solves the impact even if can’t prevent proliferation itself

**Dyer, 04** – worked as a freelance journalist, columnist, broadcaster and lecturer on international affairs for more than 20 years, but he was originally trained as an historian. Born in Newfoundland, he received degrees from Canadian, American and British universities, finishing with a Ph.D. in Military and Middle Eastern History from the University of London. [Gwynne, "The end of war," Toronto Star, 12/30, l/n]

War is deeply embedded in our history and our culture, probably since before we were even fully human, but weaning ourselves away from it should not be a bigger mountain to climb than some of the other changes we have already made in the way we live, given the right incentives. And we have certainly been given the right incentives: The holiday from history that we have enjoyed since the early '90s may be drawing to an end, and another great-power war, fought next time with nuclear weapons, may be lurking in our future..

The "firebreak" against nuclear weapons use that we began building after Hiroshima and Nagasaki has held for well over half a century now. But the proliferation of nuclear weapons to new powers is a major challenge to the stability of the system. So are the coming crises, mostly environmental in origin, which will hit some countries much harder than others, and may drive some to desperation.

Add in the huge impending shifts in the great-power system as China and India grow to rival the United States in GDP over the next 30 or 40 years and it will be hard to keep things from spinning out of control. With good luck and good management, we may be able to ride out the next half-century without the first-magnitude catastrophe of a global nuclear war, but the potential certainly exists for a major die-back of human population.

We cannot command the good luck, but good management is something we can choose to provide. It depends, above all, on preserving and extending the multilateral system that we have been building since the end of World War II. The rising powers must be absorbed into a system that emphasizes co-operation and makes room for them, rather than one that deals in confrontation and raw military power. If they are obliged to play the traditional great-power game of winners and losers, then history will repeat itself and everybody loses.

Our hopes for mitigating the severity of the coming environmental crises also depend on early and concerted global action of a sort that can only happen in a basically co-operative international system.

When the great powers are locked into a military confrontation, there is simply not enough spare attention, let alone enough trust, to make deals on those issues, so the highest priority at the moment is to keep the multilateral approach alive and avoid a drift back into alliance systems and arms races. And there is no point in dreaming that we can leap straight into some never-land of universal brotherhood; we will have to confront these challenges and solve the problem of war within the context of the existing state system.

#### Clinging to unipolarity causes the US to lashout and risks great power war and collapse – managed decline is key

**Quinn, 11** – Lecturer in International Studies at the University of Birmingham, having previously worked at the University of Leicester and the University of Westminster alongside his graduate studies at the LSE. His chief area of interest is the role of national history and ideology in shaping US grand strategy (Adam, “The art of declining politely: Obama’s prudent presidency and the waning of American power”, International Affairs 87:4 (2011) 803–824 http://www.chathamhouse.org/sites/default/files/87\_4quinn.pdf

Captain of a shrinking ship

As noted in the opening passages of this article, the narratives of America’s decline and Obama’s restraint are distinct but also crucially connected. Facing this incipient period of decline, America’s leaders may walk one of two paths. Either the nation can come to terms with the reality of the process that is under way and seek to finesse it in the smoothest way possible. Or it can ‘**rage against the dying of the light’**, refusing to accept the waning of its primacy. President Obama’s approach, defined by restraint and awareness of limits, makes him ideologically and temperamentally well suited to the former course in a way that, to cite one example, his predecessor was not. He is, in short, a good president to inaugurate an era of managed decline. Those who vocally demand that the President act more boldly are not merely criticizing him; in suggesting that he is ‘weak’ and that a ‘tougher’ policy is needed, they implicitly suppose that the resources will be available to support such a course. In doing so they set their faces against the reality of the coming American decline. 97

If the United States can embrace the spirit of managed decline, then this will clear the way for a **judicious retrenchment**, trimming ambitions in line with the fact that the nation can no longer act on the global stage with the wide latitude once afforded by its superior power. As part of such a project, it can, as those who seek to qualify the decline thesis have suggested, use the significant resources still at its disposal to smooth the edges of its loss of relative power, preserving influence to the maximum extent possible through whatever legacy of norms and institutions is bequeathed by its primacy. The alternative course involves the initiation or **escalation of conflictual scenarios** for which the United States increasingly lacks the resources to cater: provocation of a military conclusion to the impasse with Iran; deliberate escalation of strategic rivalry with China in East Asia; commitment to continuing the campaign in Afghanistan for another decade; a costly effort to consistently apply principles of military interventionism, regime change and democracy promotion in response to events in North Africa.

President Obama does not by any means represent a radical break with the traditions of American foreign policy in the modern era. Examination of his major foreign policy pronouncements reveals that he remains within the mainstream of the American discourse on foreign policy. In his Nobel Peace Prize acceptance speech in December 2009 he made it clear, not for the first time, that he is no pacifist, spelling out his view that ‘the instruments of war do have a role to play in preserving the peace’, and that ‘the United States of America has helped underwrite global security for more than six decades with the blood of our citizens and the strength of our arms’. 98 In his Cairo speech in June the same year, even as he sought distance from his predecessor with the proclamation that ‘no system of government can or should be imposed by one nation on any other’, he also endorsed with only slight qualification the liberal universalist view of civil liberties as transcendent human rights. ‘I … have an unyielding belief that all people yearn for certain things,’ he declared. ‘The ability to speak your mind and have a say in how you are governed; confidence in the rule of law and the equal administration of justice; government that is transparent and doesn’t steal from the people; the freedom to live as you choose. These are not just American ideas.’ 99 His Westminster speech repeated these sentiments. Evidently this is not a president who wishes to break signally with the mainstream, either by advocating a radical shrinking of America’s military strength as a good in itself or by disavowing liberal universalist global visions, as some genuine dissidents from the prevailing foreign policy discourse would wish. 100 No doubt sensibly, given the likely political reaction at home, it is inconceivable that he would explicitly declare his strategy to be one of managed American decline. Nevertheless, this is a president who, within the confines of the mainstream, embraces caution and restraint to the greatest extent that one could hope for without an epochal paradigm shift in the intellectual framework of American foreign policy-making. 101

In contemplating the diminished and diminishing weight of the United States upon the scales of global power, it is important not to conflate the question of what will be with that of what we might prefer. It may well be, as critics of the decline thesis sometimes observe, that the prospect of increased global power for a state such as China should not, on reflection, fill any westerner with glee, whatever reservations one may have held regarding US primacy. It is also important not to be unduly deterministic in projecting the consequences of American decline. It may be a process that unfolds gradually and peacefully, resulting in a new order that functions with peace and stability even in the absence of American primacy. Alternatively, it may result in conflict, **if the United States clashes** with rising powers as it refuses to relinquish the prerogatives of the hegemon, or continues to be drawn into wars with middle powers or on the periphery in spite of its shrinking capacity to afford them. Which outcome occurs will depend on more than the choices of America alone. But the likelihood that the United States can preserve its prosperity and influence and see its hegemony leave a positive legacy rather than go down thrashing its limbs about destructively will be greatly increased if it has political leaders disposed to minimize conflict and consider American power a scarce resource—in short, leaders who can master the art of declining politely. At present it seems it is fortunate enough to have a president who fits the bill.

### Plan

#### The United States federal government should require prior congressional approval for United States armed forces deployments authorized by the United Nations.

### Solvency

#### The plan’s requirement of prior consultation solves – bolsters domestic accountability and overall legitimacy

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[\*449] There is of course, one significant cost to congressional participation in U.S. counterterrorism policies at the U.N.: the risk that Congress may block the President's preferred policy. The cost of obstruction of policies that are central to the security of the American people was cited by the Bush administration as a rationale for working around Congress, applying signing statements that restricted the effect of legislation in the area of national security, and invoking radical theories of presidential power in order to ignore statutory prohibitions against certain measures (including the use of torture). n140 That internally unilateralist approach created **significant international ripples** which were costly to the U.S.. While it is difficult to measure whether those costs outweigh any claimed security benefits gained through the policies (that judgment may belong only to history), it is clear that the United States' reputation for compliance with international human rights and humanitarian legal norms has been significantly harmed. Moreover, congressionalobjection to a particular U.N. policy that is made **prior to U.S. support** or votes at the Council can lead to **ongoing negotiation** over the form and content of the policy. After-the-fact objections, by contrast, may lead to congressionally imposed reversals that may prove more costly to the President. B. The Form of Congressional Involvement The National War Powers Commission, chaired by former Secretaries of State James Baker and Warren Christopher, proposed a War Powers Consultative Act (WPCA). n141 Though its project was not aimed explicitly at the question of U.N. operations, the Commission set aside the question of constitutional war powers of the President and Congress that has bedeviled the War Powers Resolution, and replaced it with a structured consultative mechanism (the WPCA) designed to address domestic political concerns. n142 The framework of the WPCA may be a useful starting point for thinking about incorporating congressional consultation and participation into the President's actions at the Council, not only for domestic legitimacy [\*450] purposes, but also for purposes of international institutional legitimacy. By setting aside the contentious constitutional law questions, the Commission usefully positions its own proposal as a political arrangement aimed at broader political participation and accountability. It is useful to think about congressional participation in use of force decisions as politically desirable, rather than legally mandated, as the Commission recommends. n143 The proposal, however, falls short in that it specifically exempts short-term and limited operations - which would include many of the types of counterterrorism operations we are likely to see more of. n144 The proposed WPCA includes a requirement for congressional consultation for large-scale military commitments, and notes that "in cases of lesser conflicts - e.g., limited actions to defend U.S. embassies abroad, reprisals against terrorist groups, and covert operations - such advance consultation is not required, but is strongly encouraged." n145 Adding to this proposal specific language in support of multilateralism and requiring prior consultation in the case of all U.N. operations - including smaller scale operations - would create the kind of formal statutory mechanism which could achieve the goals of more effective domestic accountability.

#### Congress key to credibility – lack of approval creates the fear of policy vacillation

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When the Executive consults with a core group of congressional leaders before deploying American troops into theaters of risk, the executive action moves asymptotically from Justice Jackson's first scenario, where executive action moves in a constitutionally tenuous "zone of twilight," towards Justice Jackson's second scenario, where the Executive's constitutional authority maximized because it is supported by an express or implied congressional authorization. While this consultation does not authoritatively establish congressional support, or prohibit Congress from later calling for a reduction in American military engagements, it bridges the gap between the Framers' mandate for congressional authority over war and the security mandate for the U.N. delegate to make reliable U.S. commitments for military intervention that fall short of declared wars. n109 In the absence of such consultation, executive authority runs unchecked. As Justice Jackson observed, "[O]nly Congress itself can prevent power from slipping through its fingers." n110 [\*752] 2. The International Security Rationale In addition to a legal basis for including Congress in military decisions made pursuant to a Security Council Resolution, national security considerations drawn from international relations theory ("IR") further bolster the necessity of congressional support for military commitments. n111 Two main schools of thought structure the modern debate in IR: the "neoliberal" school and the "realist" school. n112 Neoliberalism provides a rich source of ideas to justify the viability of multilateral U.N. intervention as a means to international stability. n113 Realism provides a more compelling basis for analyzing national security decisions, however, because realism has wielded more influence on political thought than has neoliberalism. n114 [\*753] Realist theory has its origins in Thucydides, who asserted that the cause of the Peloponnesian War centered on disparities in power between Athens and Sparta. n115 In its modern form, realism posits four assumptions about international politics relevant to war powers analysis. n116 Each of these assumptions can be linked with a [\*754] rationale for reformulating the Resolution to affect greater congressional consultation in decisions to use force. The first assumption of realism is that states, rather than international organizations, are the central units of international politics; international organizations "merely reflect the interests of their member states." n117 This has implications for war powers jurisprudence. If states are the central units of international politics, even in multilateral military action, then it is imperative that the international actors (states) enhance their credibility with their allies and adversaries; otherwise, neither will believe them. As one scholar notes, "Credibility is the currency of diplomacy." n118 Consequently, this creates a security rationale to include Congress in decisions to engage in multilateral deployments, because a Congress that challenges an executive deployment made without congressional approval will reduce U.S. credibility in the international community. n119 The second assumption of realism is that states pursue their national interests in an international political system that is anarchic. n120 It is important to note that this does not mean the international system is in chaos. n121 States are inclined towards peaceful cooperation when it is in their interest to do so. There is no authority above states, however, to prevent a state from invoking force when it discerns force to be an effective means of achieving its national interests. n122 This proposition has [\*755] implications for war powers jurisprudence. Congress is better suited to assess multilateral deployments as a means to achieve national interests in an anarchical political system. n123 Congressional actors have an interest in being responsive to their electors that transcends presidential accountability. n124 In addition, if significant military action is within U.S. interests, then major military deployments should preserve an enhanced role for Congress because a "national interest," by definition, must be derived from the will of the Congress, and a priori, from the will of the governed. The third and fourth assumptions are closely linked, and they build from the first two realist assumptions about international politics. Specifically, the third assumption of realism is that states seek to maximize their security or their power. n125 The fourth assumption of realism is that the international system is responsible for state conduct on the international scene. n126 Thus, in an international political system predicated on anarchy, "'[S]overeign nations are moved to action by what they regard as their national interests rather than by the allegiance to a common good which, as a common standard of justice, does not exist in the society of nations.'" n127 This proposition has implications for war powers jurisprudence. An international political system predicated on anarchy creates a mandate for garnering security. Security is enhanced when commitments to collective security schemes are not subject to subsequent nullification by a discontent Congress. This represents an IR corollary to Justice Jackson's first category of presidential power: when the President acts pursuant to an express or implied congressional authorization, the President's authority is at its maximum. Through a realist lens, this suggests that when [\*756] presidential action and congressional authorization support a military force deployment, security is maximized. n128 Conclusion If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield. n129 [\*757] History reveals a flow of military authority from the Congress to the President. This trend should be tempered by considerations about the constitutionality of unilateral executive authority and the consequences that executive authority, voidable by a discontent Congress, would have on collective security efforts. A balance must be struck between swiftness, secrecy, accountability, and constitutional authority. Requiring the Executive to consult with a core group of legislative actors is one possible approach to balance constitutional and diplomatic imperatives. There are sound legal and strategic reasons to reinvigorate Congress' role in decisions to deploy military forces in multilateral operations. Admittedly, there are no perfect solutions, but the Constitution combines with collective security considerations to mandate that war powers interpretations facilitate a consensus between the political branches of government before forces are deployed into hostile theaters.

#### The plans middle path solves – creates deliberation, but doesn’t inhibit rapid decision making

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III. Analysis A. The Problem: Balancing the Framers' Intent for a Legislative War Power with the International Security Mandate for Executive Authority The Framers' desire to vest the war power in the Congress could not anticipate the collective security scheme delineated by the U.N. Charter and UNPA. Notwithstanding that the President's modern control over war conflicts with the Framers' intent, the problem is not the increase in executive power. There are compelling reasons for the Executive to hold a quantum of war power that contradicts the Framers' intent. Presidential authority to make troop commitments to U.N. operations is necessary because the viability of policies designed to enhance [\*746] international security and thwart aggression may depend on the ability of the President's U.N. delegate to make concrete commitments in Security Council negotiations. n92 Rather, the problem remains that the historical increase in the Executive's war power has taken place without a viable framework for checking that power. n93 Most profoundly, the Resolution has not been construed to balance two contradictory demands of the post-Cold War world: the Constitution demands that Congress have authority to initiate war, but American obligations under the U.N., as well as American foreign policy, both demand that the President must have authority to commit troops to military hostilities. The War in the Persian Gulf against Iraq illustrates these points. The Persian Gulf War was precipitated by Iraqi leader Saddam Hussein's 1990 invasion of Kuwait. n94 President Bush quickly deployed a force that grew to more than 500,000 troops to thwart the aggression; this initial deployment was made without consulting Congress as a whole; however, he did consult, from the outset of the deployment, with selected members of Congress. n95 After American troops had [\*747] been deployed, President Bush garnered support for military action in Kuwait from the Security Council. n96 As a consequence, the Security Council passed Resolution 678, which justified military action against Iraq to restore the security of Kuwait and the Middle East. n97 President Bush used Resolution 678 and the Security Council's support for a military offensive to justify the executive initiation of war. n98 After American troops were deployed, President Bush sought and received approval for his action from Congress. n99 [\*748] Some congressional representatives and military personnel felt President Bush's actions were an unconstitutional usurpation of the war power by the Executive and a violation of the War Powers Resolution. Problematically, the executive initiation of military force in the Gulf War left discontented representatives without legal redress. n100 It seems clear that the Resolution must be interpreted to reconcile contradictory goals: securing legislative authority to initiate war and securing the efficacy of the Executive to implement international security schemes under a U.N. aegis. B. The Solution: International Security and the Mandate for Reviving Congressional Authority Under the War Powers Resolution Foreign policy considerations demand that American forces be rapidly deployable, but a well-grounded approach to determine how force deployments should be authorized must recognize that **foreign policy interests are placed in jeopardy when the President acts without congressional consultation.** Disagreements about policy [\*749] between legislative and executive leadership create strife which reduces the ability of the United States to speak to the world community with a single voice. This situation is amplified when executive-legislative disagreement is created by force deployments made pursuant to a Security Council consensus. **The weight of U.S. commitment is reduced when Security Council** states know that American forces can be withdrawn if Congress chooses to override the Executive's force commitment. In light of this circumstance, there are grounds for amending the Resolution's consultation requirement to accommodate a modern scenario: when the Security Council deliberates on an Article 42 decision to authorize military force, the executive branch should be required to consult with congressional leaders before agreeing to commit troops to foreign engagement in any deployment that has an estimated military duration beyond sixty days. The ideal procedure for executive-legislative consultation can only be formulated by political bargaining between the executive and the legislative branches-although one compelling possibility would be to create a congressional consultative group, consisting of a core of bipartisan congressional leaders, who could grant approval for short-term deployments. n101 This proposal has the advantage of expanding Congress' role in the decision-making process, while preserving a low threshold for swift decision making.

#### Meaningful prior consultation resolves any issues with current regulations

Berman, et al, 09 [REP. HOWARD L. BERMAN HOLDS A HEARING ON THE RECOMMENDATIONS OF THE NATIONAL WAR POWERS COMMISSION Date: March 05, 2009 Location: WASHINGTON, D.C. Committee: Committee on Foreign Affairs. House Permalink: <HTTP://congressional.proquest.com.proxy.lib.umich.edu/congressional/docview/t65.d40.c3f69998000086dc?accountid=14667> Speaker REP. HOWARD L. BERMAN, CHAIRMAN Terms Subjects: War HOUSE; HRG; POWERS Body HOUSE COMMITTEE ON FOREIGN AFFAIRS HOLDS A HEARING ON THE RECOMMENDATIONS OF THE NATIONAL WAR POWERS COMMISSION MARCH 5, 2009]

And while the war powers resolution specifically directs the president to consult in every possible instance prior to introducing U.S. troops into harm's way, there have been numerous instances of U.S. military action where there has been no prior meaningful consultation with Congress, sometimes with calls coming while planes were in the air. Examples include the invasions of Granada in 1983 and Panama in 1989. Then the president believed he could deploy forces for short periods of time without adhering to the resolution's consultative requirements. Similar cases occurred with Somalia in 1992 and Haiti in 1994. To be fair, presidents have sought at various times the collective judgment and backing of Congress prior to significant armed conflict, in part in response to congressional efforts to return to a more faithful adherence to the Constitution's division of war powers. Major combat operations, including the Gulf War of 1991, the conflict in Afghanistan in 2001 and the 2003 Iraq War were all the subject of congressional debate and a vote by both the House and Senate resulting in an authorization to use U.S. armed forces. The conflict in Kosovo was also subject to congressional votes, albeit conflicting ones and usually negative ones on the opposite sides of the same issue, in fact. And the House voted to limit U.S. military involvement in Central America during the Reagan administration, which led to a scaling back of American intervention in the region. But to the extent presidents have negotiated around the war powers resolution or not consulted Congress at all, the resolution has not fulfilled its original purpose. It essentially remains a well- intentioned yet toothless mechanism to force consultations and if necessary, withdrawal of U.S. armed forces should Congress not approve of their deployment within 60 days. Indeed, presidents, scholars and even some members of this body continue to dismiss the resolution as unconstitutional and unworkable. I became particularly seized with the war powers question during Secretary Baker's term as secretary of the Treasury when President Reagan authorized U.S. war ships to defend reflagged Kuwait tankers in the Gulf during the Iran/Iraq War. We could never quite get the administration to admit that these war ships had been deployed into hostilities and were subject to the war powers resolution. In close cooperation with my respected former colleagues, Dante Fissell (ph) and Lee Hamilton, several of us undertook an effort to rewrite the war powers resolution and invite the president to seek prior authorization for military action. The thrust of that legislation for 1988, H.J. Res. 675, was to require the president to consult with the permative (ph) consultative group consisting of congressional leadership and some members chosen by the Democratic Caucus in the Republican conference of the House and Senate. It effectively preempted claims by the administration that consultation was unnecessary or improvident. I welcome a rekindling of this debate through the commendable work of the National War Powers Commission chaired by Secretaries Baker and Christopher, which believes Congress should repeal the war powers resolution. In its place the commission has recommended a consultative mechanism and a procedure for Congress to take the measure of support for the president's military actions. If such deployment does not command military support, majority support, then any member of Congress may propose a joint resolution of disapproval that would require an end to the military involvement with such resolution being subject to expedited procedures. A resolution, of course, would be subject to a veto, which would have to be overcome by a two-thirds majority. I'm not sure if the proposed legislation would sufficiently balance the authorities between the executive and legislative branches. However, I am certain that the proposed draft is a real and substantial improvement over the existing law. I'm gratified the commission has made this contribution to the war powers debate. And I can think of no better witnesses to address the critical issue of how to make the decision to go to war. I am now happy to yield to the distinguished ranking member for her opening statement. ROS-LEHTINEN: Thank you so much, Mr. Chairman. And I also join you in welcoming our most distinguished witnesses this morning. I'm grateful for the time invested by our great secretaries of State, Mr. Baker and Mr. Christopher as well as our former chairman and dear friend of this committee, Lee Hamilton as well as all of their colleagues on the commission. Their insight and their expertise are highly welcomed. The life and death issue, as you pointed out, Mr. Chairman, of committing our armed forces to combat is one of the most solemn responsibilities of our federal government, a responsibility that has only become even more complex since the deplorable attacks on our nation on 9/11. The Constitution vests the Congress with the power to declare war and to raise and support armies while making the president the commander in chief of the armed forces. The proper exercise in the interrelation of these war-making powers has been a source of historical ambiguity and tension, which some see as healthy and others as dangerous. The war powers resolution, an attempt at congressional corrective, was passed over President Nixon's veto in 1973, but has not produced a settled consensus. In this context, it would be useful to hear from our witnesses -- excuse me -- about the details of their proposed replacement for the war powers resolution, which they have titled the War Powers Consultation Act. I'm interested in learning why they believe it represents an improvement over the current war powers resolution and how we would operate in current circumstances. Congress always possesses the constitutional authority to cut all funding for U.S. participation in any particular conflict. But where no such consensus exists, our servicemen and women deserve our full support, including political support for their mission and their sacrifices. The commission has attempted to address some of these issues by offering a proposal to serve as the starting point for possible legislative action. I ask our witnesses to provide us with additional insight on how they intend their proposal to operate on several issues. First, I would be interested in understanding their decision to shift the statuary (ph) consequences of congressional inaction where the war powers resolution requires congressional approval for the president to continue U.S. troop commitment beyond 60 days. Although it has been -- it has not been enforced in practice. The proposed Constitution Act, Consultation Act would allow such deployment to continue in the absence of congressional disapproval. Second, their definition of significant armed conflict specifically excludes a number of circumstances such as actions to repel or prevent imminent attacks, limited acts of reprisals against terrorists, acts to prevent criminal activity abroad and covert operations, among others. Given the generality of these exceptions and the ingenuity of the executive branch, I would like to understand better how this new definition would improve rather than intensify the conflicting interpretations on authorities that have arisen under the war powers resolution. Third, the commission's proposal would create a standing committee, the Joint Congressional Consultation Committee, JCCC, as the focus for enhanced congressional executive consultation. Aside from the question of whether Congress can constitutionally require the president to consult before exercising his authorities, how do you see this joint congressional committee fundamentally improving preconflict resolution and consultation? And again, I want to thank Secretaries Baker and Christopher and former Chairman Hamilton for their work on this report, the National War Powers Commission Report, which represents a fitting continuation of their distinguished careers in public service. So thank you, gentlemen, for being with us here today. Thank you, Mr. Chairman. BERMAN: Thank you very much, Ms. Ros-Lehtinen. And we have excellent witnesses. Does any member want to overcome the natural barrier to seeking one minute for initial comments? PAYNE: Well, I don't... BERMAN: The gentleman from New Jersey, Mr. Payne, is recognized for one minute. PAYNE: Thank you very much. I just would like to also welcome our two great secretaries, former secretaries of State. I had the privilege to serve under both of them and, of course, our chairman, Lee Hamilton. I think that it is certainly fitting that we try to come up with a resolution to this question. I mean, ever since the Bay of Tonkin resolution, we have gone into December 7th, I guess, or December 8th in 1941 was the last time we really declared war, I suppose. But since then we've been into Granada and Panama. We've been into Haiti and went to Liberia, was in Somalia, been to Bosnia and Sudan, have gone, of course, to Iraq. Some want to go to Iran, North Korea. So I do think that at some point in time we need to have a clarification of the duties. And I commend the committee for the war powers commission, such distinguished persons. I hope that we can come to grips with the resolution. And with that, my time is expired. BERMAN: The time of the gentleman is expired. On behalf of the institution, I would say you served with the two secretaries, not under the two secretaries. The gentleman from New Jersey, Mr. Smith, is recognized for one minute. SMITH: Mr. Chairman, thank you. Let me just say very briefly that our three witnesses are extraordinary, wise and experienced men, all of whom have profoundly and positively shaped foreign policy during some of this nation's most challenging years. The War Powers Act clearly has failed to provide any meaningful framework for the president or for the Congress to deal with the profound issues of war and taking a country to war. I think this commission's report that I have read cover to cover, like, I'm sure, every member of this committee has, provides a very, very meaningful blueprint for action. And I think, you know, having Mr. Hamilton, our former chairman, who I served with as well, as a very eminent member of this commission bodes well. He not only heads the 9/11 commission, which he and Tom Kane so ably chaired, made a difference. Most of the recommendations, almost every one of the recommendations they made, either through administrative action or by congressional action, has been put into policy and into law. I think this is a starting gate for Congress. And hopefully we come out of the blocks and take very seriously your recommendations. And I thank you. BERMAN: The time of the gentleman is expired. We served under Chairman Hamilton. We served with the secretaries. The gentleman from Massachusetts is recognized for one minute. DELAHUNT: Thank you, Mr. Chairman. Thank you, Mr. Chairman. As you're aware, chairing the Committee on Oversight, I conducted a number of hearings on the same issues. And I applaud you for taking it to the full committee. And I want to express my gratitude to all three gentlemen in taking on what is clearly an issue that deserves serious consideration and is not susceptible to easy resolution. I'm particularly pleased that you've taken the concept of consultation and elevated it. I think that is absolutely essential to a thoughtful decision. I'm reminded of the quote by Senator Hagel during the course of the debate on Iraq where he claimed that the Bush administration considered Congress as a constitutional nuisance in terms of that particular conflict. I dare say that has occurred previous to the Bush administration as well, both with Democratic and Republican presidents. However, I -- am I done? BERMAN: You can finish the sentence. DELAHUNT: I'll make it a very -- I won't -- I'll either make it a very long sentence or I'll stop. I'll stop. I thank the gentleman. BERMAN: The time of the gentleman has expired. The gentleman from Texas, Mr. Paul? PAUL: Thank you, Mr. Chairman. And welcome, panel. I do appreciate the chairman bringing this very important issue before us because it's something that I have been talking about for a long time. And I think it's crucial. And I agree that the war powers resolution has not functioned very well. And a lot of people have argued that it is unconstitutional. Of course, the president's have argued it was unconstitutional because they wanted more power and more leeway. And others such as myself have argued that it has given the president too much power, actually legalized war for 90 days. And it's very difficult to get out of a war once it gets started. Since World War II we have had essentially perpetual war with no significant congressional approval in that there's never been a declaration of war. There's a lot of ambiguity. But, quite frankly, I think the ambiguity comes from the fact that we don't follow precisely -- which is very clearly stated in the Constitution. You can't go to war unless the war is declared. And we'd be a lot better off if we just followed that mandate. BERMAN: The time of the gentleman is expired. The gentleman from Georgia, Mr. Scott, is recognized for one minute. SCOTT: Thank you very much, Mr. Chairman. I, too, want to commend you all for coming before us and doing this extraordinary work. There's no more important work than what we do to make decisions before we send our young men and women into harm's way. But just one point -- this legislation calls for a congressional vote approving military action 30 days after its start. If Congress does not approve of the military action, it can submit a resolution expressing its disapproval. My point is submitting a disapproval resolution seems unnecessary when Congress can simply practice the constitutional rights and deny funding. So the question is why is there a need for this additional measure is the point we want to make. Thank you. BERMAN: The time of the gentleman is expired. The gentleman from Missouri, Mr. Carnahan, is recognized for one minute. CARNAHAN: Thank you, Mr. Chairman. A quick thanks to the members of the commission for this work. I think it's long-overdue, also to Subcommittee Chairman Delahunt for the hearings we had in his subcommittee last Congress and to the chairman for bringing this up. It's an issue like me and my colleagues, I believe, needs to be reexamined and revisited in ways that are constitutional and practical. I can't begin this debate without mentioning my friend, the late Missouri Senator Tom Eagleton, who was one of the original champions at preserving the war powers with the popularly elected Congress. While he ultimately voted against the final committee report because he viewed it as too watered down, his work and subsequent attempts to strengthen the war powers resolution left an indelible mark on the debate surrounding Congress' role in war. Senator Eagleton also sought to prevent an end run around congressional authorization by the executive branch by seeking to prevent the president from using treaties and other authorities as bases for going to war. So I'm anxious to hear the panel talk about that today. Thank you, Mr. Chairman. BERMAN: The time of the gentleman has expired. The gentleman from Indiana, Mr. Burton? BURTON: Mr. Chairman, it's nice to have these three great people here, especially Lee Hamilton from Indiana. We have that Hoosier intelligence at the desk, and we really appreciate that. You know, there have been times when presidents have gone beyond their authorities such as Lincoln and Jackson. And what I want to find out today is how we deal with those gray areas because there are gray areas. And so, if you could illuminate those areas, I'd really appreciate it. BERMAN: The time of the gentleman has expired. The gentleman from California, Mr. Rohrabacher, is recognized for one minute. ROHRABACHER: Thank you very much, Mr. Chairman. Let me note I have served under two of our witnesses today, not only Chairman Hamilton, but also under Mr. Baker, who was the chief of staff at the White House when I worked at the White House. But I have listened a great deal to Mr. Christopher. I don't usually listen to people who I'm working under. So... BERMAN: We've noticed. ROHRABACHER: All right. No, but let me just note both of them were fine bosses and contributed a lot to my understanding of how the war works. And I appreciate the guidance from both of them in my career and look forward to this testimony. Let me just say very quickly I don't think we need a change in the law. We need to have Congress have courage enough to use the powers that we already have to balance off the authority of the president in this very important area in terms of war fighting and committing of our troops. As far as I'm concerned, Congress has been gutless and unwilling to exercise the power it already has. Why change the law when we aren't even exercising the authority we've got? Thank you. BERMAN: The time (inaudible) for one minute. (UNKNOWN): Thank you, Mr. Chairman. Thank you, Mr. Chairman. And thank you for holding these hearings. Article 1, Section 8 of the Constitution explicitly grants the legislative branch the exclusive power to declare war. Article 2, Section 2 declares the president shall be the commander in chief with respect to carrying out the exercise of such powers declared by the Congress. In no way did the founding fathers envision vesting the power to declare war with the president. In fact, they were fleeing from that very model of government. Yet for the past half-century, this body has abrogated its responsibility and watched an all too willing executive branch to step in to fill the void. To wit, the last formal declaration of war made by this Congress was World War II. But we have repeatedly sent and currently have troops deployed at war. Today we're seven years into the largest kinetic U.S. military engagement since the Revolutionary War predicated on a flimsy congressional authorization and a string of exaggerated intelligence from the executive. Since it was enacted in 1973, no president has ceded the argument that the war powers resolution was necessary, let alone constitutional. And I think they're right. I think Congress needs to step up to its responsibility. And I think we need to have this kind of dialogue about what are the proper roles of the legislative and executive. BERMAN: The time of the gentleman... CONNOLLY: Thank you. And if I may, Mr. Chairman, simply acknowledge the former governor of Virginia, Gerry Baliles, who is here today. BERMAN: Yes. CONNOLLY: We're very pleased to have him. BERMAN: Do any other members of the committee seek recognition? The gentlelady from California, Ambassador Watson? WATSON: Thank you so much, Mr. Chairman, for this hearing. And (inaudible) from the war in Iraq the discourse between Congress and the president must begin at the armed set, a significant armed conflict. Looking back in retrospect, the war powers resolution of 1973 does not provide a needed forum. It is unclear that adopting the proposed war powers resolution of 2009 will encourage the president to begin the necessary discussion and truly consult with Congress and the people. But it's a start to making necessary changes on how our country enters significant armed conflict. So I look forward to the testimony. And I welcome our expert witnesses. Thank you. BERMAN: The time of the gentlelady is expired. The gentlelady from California, Ms. Lee, is recognized for one minute. LEE: Thank you, Mr. Chairman. And I, too, want to thank you and recognize all of you for all of the service that you have provided to our country and so glad that you're here today and we've come to this point. My predecessor, Ron Dellums was very involved in issues around War Powers Act. And I've been deeply involved in them also as a result of being on his staff and now as a member. And there are several issues that I hope the commission was able to address some of these issues. One is, of course, the president has the authority to use force to prevent imminent attacks on the United States. So I want to find out how the commission -- or did the commission address the authorization or an authorization to use force as a preemptive strike to prevent future military attacks, just how that would proceed within your recommendations of the War Powers Act revision. Also I'm one who believes that only Congress can declare war. I still believe that. And I don't believe we have the authority to provide the authority to the president to do whatever. And so, let me just ask you if you could address how the authorization to use force versus a declaration of war fits in. BERMAN: The time of the gentlelady has expired. LEE: Thank you very much. BERMAN: And if there is no one else seeking recognition, I will now turn to our witness panel for whom no introduction is really necessary. But I'll give one anyway. James A. Baker III, served as the 61st secretary of State under President George H.W. Bush from 1989 to 1992 and as President Bush's White House chief of staff from 1992 to 1993. Mr. Baker, a 1991 recipient of the presidential medal of freedom, served during President Ronald Reagan's administration as chief of staff from 1981 to 1985 and as secretary of the Treasury from 1985 1988. Mr. Baker is the honorary chairman of the James A. Baker III Institute for Public Policy at Rice University and senior partner at the law firm Baker Botts. Mr. Baker and former U.S. Congressman Lee Hamilton served as co-chairs of the Iraq study group in 2006. And Mr. Baker and former President Jimmy Carter served as co-chairs of the Commission on Federal Election Reform in 2005. Warren Christopher served as the 63rd secretary of State under President William J. Clinton from 1993 to 1997. He served as the deputy attorney general of the United States from 1967 to 1969 and as the deputy secretary of State of the United States from 1997 (sic) to 1981. A 1981 recipient of the presidential medal of freedom, Mr. Christopher is senior partner at the law firm of O'Melveny & Myers where he was chairman from 1982 to 1992. In order not to look parochial, I will not specifically refer to the number of major contributions he's made to the Los Angeles community in a whole variety of areas and, of course, now lives there. Lee Hamilton is president and director of the Woodrow Wilson International Center for Scholars and a director of the Center on Congress at Indiana University. Lee Hamilton served for 34 years in Congress representing Indiana's 9th District from January 1965 to January 1999. During his tenure, he served as chairman and ranking member of this committee. He also chaired the Subcommittee on Europe and the Middle East from the early 1970s until 1993 along with at least four other committees during his congressional tenure. Since leaving the House, Hamilton has served on every major commission on national security, including a stint as vice-chair of the National Commission on Terrorist Attacks Upon the United States, known as the 9/11 commission, and co-chair of the Iraq study group. Congressman Hamilton, thank you very much for returning to the committee. I understand you will not be giving an opening statement, but you will be available to answer questions. And I want to, as Gerry Connolly did, recognize the director of the Miller Center, which produced, sponsored this commission, the former governor of Virginia Gerald Baliles and performed a valued role as an adviser to the commission. Without objection, the executive summary of the national commission's report and the proposed legislation offered by the commission shall be inserted into the record. And, Mr. Baker, I call upon you to proceed with your opening statement. BAKER: Thank you, sir. Chairman Berman, Ranking Member Ros- Lehtinen... BERMAN: The microphone. BAKER: Thank you, sir, very much. Chairman Berman and Ranking Member Ros-Lehtinen, members of the committee, it is a real honor for us to be with you today. We are here, of course, to discuss the report of the National War Powers Commission, which Secretary Christopher and I co-chaired and on which your esteemed and very distinguished former Chairman Lee Hamilton served as a very valuable member. We're quite fortunate, as you've noted, Mr. Chairman, that Chairman Hamilton is with us here this morning. Let me begin with a bit of background on the commission and the serious problem that it was formed to deal with. And then Secretary Christopher will detail our proposed new legislation. Two years ago, Chris and I were approached by the Miller Center at the University of Virginia. And as you've noted, Mr. Chairman, the director of that very fine center, the distinguished former governor of Virginia, Gerald Baliles, is with us today. And we were asked at that time to co-chair an independent but bipartisan commission to consider an issue that has bedeviled legal experts and government officials since the very day our Constitution was framed. And that is, of course, the question of how our nation makes the decision to go to war. As we know, our Constitution gives the president the powers of commander in chief. The Congress has, of course, the power of the purse and the power to declare war. But history indicates that presidents and Congresses have often disagreed about their respective roles in the decision to go to war. And the Supreme Court has shied away from settling the constitutional issue. So it was evident to us that if we were going to recommend anything meaningful, it had to be some practical or pragmatic solution to this conundrum. As we put together the commission, we thought it was important to have a wide range of perspectives and voices. And so, our commission includes legal experts, former congressional members, former White House staffers and former military leaders. Our 12-member commission is equal part Democrats and Republicans. After 14 months of study, Mr. Chairman, we concluded that the central law governing this critical decision, the war powers resolution of '73, is ineffective. It's unworkable, and it should be repealed and replaced with a better law. The 1973's resolution's greatest fault is that most legal experts consider it unconstitutional. Although I think it's important to note that the Supreme Court has never ruled on it. We believe that the rule of law, which, of course, I'm sure everybody in this room would agree is a centerpiece of American democracy, is undermined and is damaged when the main statute in this vital policy area is regularly questioned or ignored. The war powers resolution of '73 has other problems. It calls for the president to file reports of armed conflicts and then use these filings to trigger the obligation for the president to remove troops within 60 or 90 days if Congress has not affirmatively approved the military action. This, of course, purports to allow Congress to halt military campaigns simply by inaction. Unsurprisingly, not one president, Democrat or Republican, has filed reports in a way that would trigger the obligation to withdraw forces. As a result, the 1973 statute has been honored more in the breach than in the observance. Recognizing this, others have suggested amending or replacing that flawed '73 law. But no such proposal has gotten very far typically because most of them have sided too heavily either with the Congress or with the president. A common theme, however, runs through all of these efforts. And that common theme is the importance of meaningful consultation between the president and the Congress before the nation is committed to war. And our proposed statute would do exactly that. It would promote, in fact, mandate meaningful discussion between the president and Congress when America's sons and daughters are to be sent into harm's way. But, Mr. Chairman, it does so in a way that does not in any way limit or prejudice either the executive branch's right or the Congress' right or ability to assert their respective constitutional war powers. Neither branch is prejudiced by what we are proposing. And, in fact, our statute expressly preserves each branch's constitutional arguments. In fact, we think that both branches -- and we know the American people -- would benefit from an enactment of this statute. Mr. Chairman, our report is unanimous. That is somewhat remarkable, given the different political philosophies on the part of the members of our commission. I would submit to you that there is something good about a solution we suggest when you can get people from differing political perspectives like Judge Abner Mikva and former Attorney General Edwin Meese to agree on the solution. But both of these gentlemen served very ably on our commission, and both of them support this result. Before I turn the microphone over to Secretary Christopher, let me simply say how rewarding it has been for me personally to work with this fine gentleman and this able statesman and this dedicated public servant. A truly great American, Secretary Christopher. BERMAN: Thank you very much, Secretary Baker. Secretary Christopher, we look forward to your testimony. CHRISTOPHER: Chairman and Ranking Member, members of the committee, my testimony will follow briefly on Secretary Baker's testimony. Without going on about it, let me just say it's a lot more fun to be working with Secretary Baker than working against him. He's really an extraordinary American leader. The statement that I have will be brief. Let me just say that the statute that we're putting forward is quite straightforward and almost simple. It establishes a bipartisan joint congressional consultation committee consisting of the leaders of the House and the chair of the key committees. Under the proposed statute, the committee is provided with a permanent professional staff and access to relevant intelligence information. And this is an innovation which we think the Congress ought to pretty much welcome. The statute requires, as the chairman has said, the president to consult with the committee before deploying U.S. troops into any significant armed conflict, which is defined as a combat operation lasting more than a week. Now, if secrecy precludes prior consultation at that time, the president is required to consult with the committee when three days after the conflict begins. Within 30 days after the conflict begins Congress is required to vote up or down on the resolution. If the resolution is defeated, any senator or representative may file a resolution of disapproval. Mr. Chairman, I recognize that many advocates of congressional power argue that Article 1, Section 8 of the Constitution joins -- puts the hands on -- this issue in the hands of Congress by giving the Congress the power to declare war. These proponents say that by this provision the framers of the Constitution stripped (ph) the executive branch of the power to commence war which the king of England enjoyed and which the framers wanted to avoid. On the other hand on the other side of the argument, proponents of presidential authority point to the executive power in the commander in chief clause of the Constitution. They say that the framers wanted to put the authority to make war in the hands of the government official who had the most efficient -- most ability to execute and the most information. And they point to the recent history of the president's predominance as proof of their position. Now, Mr. Chairman, a whole forest of trees has been felled in writings on both sides of the issue, pro and con. And although both sides have very good arguments to make, I would say only three propositions hold true. First, no consensus has emerged in the debate over the 200 years of our constitutional history. No one side or the other has, quote, "won" this argument. Second, only a constitutional amendment or a decisive Supreme Court opinion will dissolve that fundamental debate. And without extending this, neither one of those things is very likely to happen. Courts have turned down war powers cases filed by as many as 100 members of Congress. And third, Mr. Chairman, despite what I and my fellow commissioners might feel about this debate one way or the other, we determined that we simply can't resolve the debate. And the last thing we wanted to do was simply put down another report to paint an opinion as to who was right and wrong. Thus in drafting the statute before you we've deliberately decided not to try to resolve this underlying constitutional right debate and preserve the rights of both the Congress and the executive. Instead of trying to call balls and strikes, we can actually agree that any legislative reform must focus on practical steps to ensure the president and the Congress consult in a meaningful way before we go to war. We believe that among all available alternatives the proposed statute best accomplishes that result. We think it's a significant improvement over the 1973 resolution and that it will be good for the Congress, the president and the American people. We offend (ph) part of the Congress -- and I know I'm here in Congress today. The statute gives the Congress a more significant seat at the table when the Congress is thinking (ph) about whether or not the nation should go to war, provides not only a seat at the table, but a permanent staff and access to all relevant intelligence information. The statute also calls for genuine consultation, not just lip service, not just notification. Now, I strongly believe that the seasoned views of congressional leaders constitute a vital resource for the president in hisdecision making process**.** Having heard a number of these debates over the years, I can say I think it's very healthy for the president to hear independent views from people who don't work for him. The president, I think, is advantaged by this because this proposal would eliminate a law that every president since 1973 has regarded as unconstitutional but nevertheless has to worry about and is an overhang. This provides a mechanism so he knows who to consult with on Congress. He just doesn't have to guess. Mr. Chairman, working with former chairman of the committee, Lee Hamilton, here on my left, we've sought to set out a careful balance between the Congress and the president on matters like this of enormous importance. I'm sure that neither the strongest advocates of congressional power nor those of presidential power will be happy completely with our proposal. But we think that what we've done is a fair reflection of the right balance to strike. We think it's a practical and pragmatic reform. Thank you very much, Mr. Chairman. BERMAN: Thank you very much. Am I correct, Lee, that you have no opening statement? OK. Then I will yield myself five minutes to begin the questioning. And this is to any of you who would care to respond. And I have two questions. I'll throw them out both (ph) and remind my colleagues that the five minutes includes what I say and their answers. So pace yourself. Question number one, I mentioned this earlier. One thing that worries me about this is the extent to which this more formalized, institutionalized consultative process, which I find appealing -- does that become the basis for, at least on the occasions where the White House has asked the Congress for the authorization to use force -- sometimes we're thought of as the functional equivalent of a declaration of war. But others disagree. But will that reduce the incentive for the White House to do what at least on three occasions they have done, which is come, before hostilities started, to seek a direct vote by both Houses? The second question is as to the exceptions in terms of the time limits and the bases for not applying this process. And I raise the hypothetical question about a decision to hit nuclear installations in another country in order to prevent them from developing a nuclear weapon. The timeframe might be thought of in less than a week. But the consequences of that decision could lead to a conflict that go much longer than a week. To what extent do -- in a more general sense, to what extent do these exceptions threaten to swallow the general rule that your proposal makes? BAKER: Mr. Chairman, with respect to your first question, I don't believe that this would reduce the White House's inclination to come to the Congress for approval. In fact, I think it would increase it. As I think you pointed out in your opening statement, that has been the case over the last 50 years with the exceptions, I think, of Granada, Panama and Bosnia. The White House has actually come to the Congress for approval and gotten a vote of approval. But I think the reason presidents come to the Congress is because they need the political support that is gained by getting the approval of the representatives of the people. And by requiring extended and more intensive consultation in the first instance we think it would move that practice forward positively and not negatively. I don't think the fact that the president consulted would mean that he would be satisfied to go forward without trying to get Congress' approval. The presidents normally want Congress' approval for the political benefit that that brings, not because they think they need it because no president believes he or -- so far he -- absolutely needs it. So they come to the Congress for the political benefit that that brings. And I think they would continue to do so. I might take a quick shot at your second question. Then maybe Chris wants to add or... BERMAN: Only because of the time, maybe we ought to, on the second one... BAKER: Yes, get one person -- yes. Why don't you... BERMAN: Yes, because we only have another minute before I have to gavel myself down. CHRISTOPHER: Mr. Chairman, any hypothetical such as you put forward would have to be measured against the statute. And to be brief about it, any conflict that goes on longer than seven days requires the president to move forward and the Congress to vote up or down on that particular action. You can guess as well as others whether such a conflict to take out nuclear facilities might take longer than seven days. It probably will. But with respect to any such hypothetical, always suggest is it be laid down against the statute and see how the statute affects it. HAMILTON: Mr. Chairman, may I simply observe that every president confronts a really difficult judgment how to consult with the Congress. The Congress is a very large, very diffuse institution. One of the great advantages of the proposed statute is that it gives the president a mechanism, a focal point by which to consult. And I think any president would use that extensively. There is also a provision in this bill that encourages -- does not require -- that a president consult regularly with this consultative committee. I think that -- you can't impose consultation on anybody if they don't want to consult, I guess. But we try to encourage it here. And the result of these two things, in my view, would be you would develop an ongoing relationship between the president and the Congress on many questions of foreign policy, and particularly the one of going to war. BERMAN: My time is expired. The gentlelady from Florida? ROS-LEHTINEN: Thank you so much, Mr. Chairman. And thank you for the excellent testimony this morning. Following up on my opening remarks, your legislative proposal on page nine, section nine definition talks about the term significant armed conflicts, says it shall not include any commitment of the United States armed forces by the president for the following reasons, a, b, c, d and e, covert operations, training exercises, acts to prevent criminal activity, limited reprisals against terrorists. Couldn't a creative executive construe these exemptions very broadly to avoid the reporting and legislative requirements of the statute? And why do you expect that those ambiguities would be less problematic than the interpretive disputes that have arisen under the war powers resolution now? Thanks, gentlemen. BAKER: Not in my opinion, Congresswoman. I don't think -- I think that what we're calling for here is a certain amount of exercise of good faith on both sides. We're not going to resolve the constitutional question here, as we point out in our testimony. You can only do that by Supreme Court decision or a constitutional amendment. We're not going to get either one of those. But we do need to try to move toward greater cooperation and consultation. The exclusions that we have listed here all disappear if a conflict has extended for more than seven days. Nothing in here would be exempt after the conflict. Let's suppose a president took action to prevent an imminent attack on the United States. And if that extended for more than seven days, there would -- the obligation to consult would be triggered. And the obligation to periodically consult as the conflict went on would be triggered. And the obligation to file a report once a year listing all significant armed conflicts and other operations would be triggered. ROS-LEHTINEN: Thank you. Mr. Christopher or Mr. Hamilton? HAMILTON: Ms. Lehtinen, let me just observe that the exceptions to the significant armed conflict are really quite precise. And they are very limited in scope. And I do not think they create loopholes, if you would. Now, we'd have to acknowledge here that we spent as a commission an awful lot of time on the definition of significant armed conflict. Obviously, that's very hard to do. And we resolved it by defining it in terms of length of time, conflict lasting more than a week. But the exceptions that are made there are precise. They are ones clearly where you want the president to act on his executive authority. And they're quite limited. ROS-LEHTINEN: Mr. Christopher, if you wanted to comment? CHRISTOPHER: I just would point to Section 4-B, which... BERMAN: Push your microphone. CHRISTOPHER: Congresswoman, I just point to Section 4-B, which specifically provides that if any action goes on longer than seven days then it's subject to the provisions of the statute. And as Congressman Hamilton had just said, we worked a long time on that particular provision. And we think that this does give the president authority to act in emergency situations but constrains that authority by the seven-day rule. ROS-LEHTINEN: I still have a minute. So on this seven-day rule, the term significant armed conflict shall not include any commitment of the U.S. armed forces by the president for the following purposes. And that's not subject to the seven days. CHRISTOPHER: Yes, I think if you look at Section 4-B, Congresswoman, you'll see if any one of the actions described in Section 3-B, that's the -- of this act becomes a significant armed conflict as defined in Section 5-A, then the president shall initiate the consultation with the joint consultation committee. So that seven-day provision is an override on each of the exception provisions. ROS-LEHTINEN: Thanks. I think in my 20 seconds that are left -- we have different versions, obviously. But it's the definitions of the exemptions that I believe are just as open to controversy, to interpretation as the original act itself. Thank you very much, gentlemen. CHRISTOPHER: I'm very sorry, Congresswoman. I didn't realize you had a different numbering than we have here. BERMAN: Just to verify the substantive issue, you're saying number one, nine, one. The other sections are subject to nine, one. So if there is a combat operation lasting more than a week, it doesn't matter what kind of -- I think it was -- the consultation process triggers in. CHRISTOPHER (?): Chairman, that's correct. BERMAN: The gentleman from New Jersey, Mr. Payne, is recognized for five minutes. PAYNE: Thank you very much. I have a question. And it's been indicated in the testimony that the courts have failed to involve itself, the judiciary, in the question of who has the authority, whether it's the executive branch totally or whether it's the Congress. And I guess my question is that I said in the past courts have declined jurisdiction for deciding whether the president violated the war powers resolution by entering into hostilities without congressional authorization. If a member of Congress, in your opinion, were to file suit against the president for violating the War Powers Consultation Act of 2009, the one that we have before us, would, in your opinion, a court be more likely to accept jurisdiction for deciding the merit of the case? I'll start with you, Mr. Baker. BAKER: That's a great question. That's a great question. And you may get differences of opinion among the lawyers here at this witness table. I don't know what Secretary Christopher's view is. My view is no, they wouldn't be any more likely to. I think they would still consider it to be a political issue that they might try to decline to take jurisdiction of. But you would have, you would have a much more clearer situation, I think, than in the case of a statute the constitutionality of which is generally widely questioned. CHRISTOPHER: Congressman, never predict what the Supreme Court is going to do for sure. But there are dozens of instances, and more than 100 members of Congress have sought to invoke the jurisdiction of the Supreme Court of the United States. And for one reason or another, usually because they called it a political question, often because they say the plaintiff does not have standing to sue, the court has declined to get into that. I think it wants to stay away from that issue on political grounds. PAYNE: Yes. HAMILTON: Mr. Payne, we had a battery of lawyers advise us on this question. And I think it is total unanimity among the lawyers. And as the two secretaries have stated, the courts have just stayed away from this and do not think it's an appropriate role for the courts to get into this most political of all questions, do you go to war. PAYNE: Well, thank you very much. As you said (ph) there, two lawyers in the room at least have two opinions. But... BAKER: Well, at least we all agreed on this, Congressman. PAYNE: Yes. Thank you. I yield back, Mr. Chairman. BERMAN: Of course, there was a -- that used to be the rule about redistricting. Then Baker vs. Carr came along, and all of a sudden, the political question wasn't a political question. You weren't the Baker, though, I don't think. BAKER: No. BERMAN: The gentleman from New Jersey, Mr. Smith, is recognized for five minutes. SMITH: Thank you very much, Mr. Chairman. Let me just say the draft that we have, I think, underscores some of the concerns the ranking member made. I would hope that if we talked about significant armed conflict, it would stop and not have exclusions except in the most egregious manners because the legislation we have suggests that to prevent imminent attacks, limited acts of reprisal against terrorism, terrorists and states -- I mean, that's exactly, in a way, without a doubt, what got us into the Iraqi war, and then covert operations. So it seems as if the exclusions page on our draft just makes it so that just about anything from an elasticity point of view could be included in that. So we've got to be very careful how we draft it. Let me ask -- because I was going to ask about that, but I thank the ranking member for making that very important point. Let me just ask about the joint committee, the makeup. I served as chairman of the Veterans Affairs Committee. And I often thought of that committee as the consequences committee having spent so many years working with service cadets and disabled veterans. Was there any discussion -- I know you drew your ideas from prior proposals. But would it be advisable to include the Veterans Committee chairman and ranking member? No one knows the burden of war than a veteran, especially a disabled veteran. And certainly their representatives on that committee would have a very unique perspective. The talk of consultation with the joint congressional committee and the conveyance of a classified report setting forth the circumstances necessitating the significant armed conflict, the objectives and the estimated scope and duration of the conflict before ordering the deployment of U.S. armed forces into significant armed conflict is, in my opinion, necessary, prudent and will make potentially reckless deployments less likely. It may also enhance the sustainability, especially over the long run, of a deployment. But the concern is that the secrecy part, which can be exercised by the president, and you recognize that in Section 5-A, could render the consultation and reporting provisions before an action moot. Every president thinks -- and I say this with respect -- they know best. And Congress might be left out. And that language then becomes almost sent (ph) to the Congress. What's your thought on that? BAKER: Do you want to take that, Chris? CHRISTOPHER: I'll respond to the first part of your question. I think we wanted to keep the consultation committee relatively simply, relatively narrow. But that would certainly be an issue that Congress could decide if it wanted to add the chairman and co-chairman of another -- chairman and ranking member of another committee, that could certainly be done. That would simply be something that would be up to Congress. On the other question, I think we considered very carefully the provisions. And we've gone about as far as, I think, we can properly go in limiting the scope of the consultation. SMITH: Secretary Baker? BAKER: Are you concerned that -- is your concern... SMITH: I'm concerned that everything -- the chief executive or commander in chief might construe everything to be secret and then after the fact, we get the information, and then if these exclusions on the definitions page were to be enacted in the way our draft has it, just about everything -- you could fit everything into that exclusion. And we will then have had a very well-meaning but ineffective legislation. BAKER: I think there's still some difference of view on that last question. First of all on the secrecy issue... SMITH: Yes. BAKER: Yes, any president, particularly one that wanted to act in bad faith, could keep everything secret from you for three days, well, for three days, but no more than that. OK? But I think we have to assume here since we're talking about trying to encourage cooperation and consultation that there'll be a modicum of good faith on both sides with dealing with this difficult issue. With respect to the exclusions, I think we tried to make clear -- and I believe this is correct -- that after seven days you've got to consult, that covert action is exempted completely because there are other processes, procedures and statutes that govern that. But I believe that it's correct to say that after an engagement has gone on for seven days, even if it's one of these -- if they were undertaken as one of the exclusion items, then the obligation to consult would take place and the statute would be triggered. Now, that's my view. HAMILTON: Mr. Smith, obviously there are limitations to language here. And it's very, very difficult to try to foresee the kind of events the president and the Congress would be confronted with. I don't know that we've got this language exactly right, but it does seem to me that there are going to be a number of instances -- and we've identified, I think, most of them where presidents must act quickly in emergency situations. And you don't want to invoke the process that we have here in this statute. So we were trying to balance here the role of the Congress on conflict, on the one hand, and the role of the commander in chief to act quickly in defense of the nation. And I think we've done a reasonably good job of it, but obviously it's not the easiest thing to write into statute. SMITH: Secretary Baker, did you want to... BERMAN: Actually... SMITH: Am I out of time? BAKER: No, you're a minute done. I got so interested in your question that I -- the time of the gentleman has expired. The gentleman from Massachusetts, Mr. Delahunt? DELAHUNT: Thank you, Mr. Chairman. And again, let me repeat. I think encouraging consultation is profoundly important and very well might obviate much of the tension and the conflict between the executive and the legislative branches. But I would put forth that meaningful consultation, even if it is genuine and done in good faith -- and presumably it does -- in the end does not give the president the power to engage in military action and without the approval or authorization of Congress. I take that view. And myself and my colleague from North Carolina, Mr. Jones -- we'll be introducing legislation before the end of the month that embraces consultation but obviously takes a different course in terms of Congress' role. And I agree with the gentleman who spoke earlier, my ranking member, Mr. Rohrabacher, is that the avoidance of the congressional burden of authorization of military action in a large degree is responsible for this debate and for this tension, for this conflict. And I believe that the course that we're on now is dangerous in the sense that Congress, not the executive, continues to allow the erosion of what is our obligation. I don't know if -- and let me just also note that you refer to the funding mechanism as a way for Congress to assert itself. I don't accept that because I don't think it's always post facto. It's after the initiation of military action. And again, going back and reading, at least my reading of the Constitution is that some sort of authorization is required. And we can't just simply look for rationales to avoid our burden. And again, I think the consultative mechanism will help. And I think it's important. And I think it should be enthusiastically embraced by this committee. But I don't know if any of you had the opportunity to note this morning's -- I think it was in the Washington Post -- opinion piece by George Will relative to the Iraq War. And it's entitled, I think, "Congress Shares the Burden." And with the expiration of the U.N. mandate, I would submit that there is no authority, no authorization for American military to conduct offensive combat action. And again, that was the position that was articulated by both the president, by the secretary of State and by the vice president prior to the election. And unless we accept or confer or embrace the so-called -- it's called a status of forces agreement, which I believe it's not -- and take some action, we will continue to allow the erosion of the congressional responsibility to occur. And I just wonder if any of you have any comment on that observation, on the Will, George Will opinion piece. CHRISTOPHER: Mr. Delahunt, I did see Mr. Will's piece. But the point that you make -- it has struck me in the preliminary comments of several members of the committee. You made the point that Congress has been timid, that it's not been aggressive enough in asserting its constitutional powers and the like. And I think that view is widely shared among many members of Congress. I don't know if a majority, but widely shared. I think we believe what we have put forward is a very practical approach. And it certainly does not resolve the question that you're raising. You want to increase the power of the Congress with regard to this critical question of when you go to war. There have been many over a period of many years who have taken that position. And to be very candid about it, that viewpoint has not been able to get a law enacted. The reverse is also true. There have been many members of Congress who take the opposite view you do, and they want to increase executive power. And the argument has gone on, and it has not been resolved. And the proposal before you does not try to resolve that question. We punt on it, if you would. Our proposal avoids the constitutional debate. And it respects, I think, the constitutional powers of both branches. BERMAN: The time... CHRISTOPHER: We are dealing with a very practical problem. The president thinks we've got a national security threat out there. He thinks that armed service action is needed. And we're trying to make assure that you enhance the opinion available to the president before he makes that decision by going outside his official family and consulting members of Congress. BERMAN: The time... CHRISTOPHER: We think people can agree upon that and still take the position that you take, Mr. Delahunt. In other words, you could vote for this bill and still advocate your position. You would not be prejudicing your position at all. BERMAN: The time of the gentleman has definitely expired. And the gentleman from California, Mr. Rohrabacher, is recognized for five minutes. ROHRABACHER: Thank you very much, Mr. Chairman. Let me note that in 1999 when President Bill Clinton sent our military forces to battle Bosnia Serbs, the House of Representatives rejected authorization by a vote of 213 to 213. Then the House defeated a measure declaring a state of war between the United States and the Federal Republic of Yugoslavia. And then we defeated a measure directing the president to remove the U.S. armed forces from operations against the Federal Republic of Yugoslavia. And then both Houses of Congress agreed to an emergency supplemental appropriation to pay for it. I don't necessarily think that increasing the influence of people who now have demonstrated an inability to make a decision on this end of the government just improving consultation between us and the executive branch are going to make things better. I don't think it will necessarily create an harm. And I appreciate -- I will be reading your work. I have not done my homework, but I will be reading it thoroughly. And I thank you for spending the time and effort to focus on this relationship. Clearly, the Constitution gave the preponderance of power in terms of foreign policy and at least the carrying out of military operations to the executive branch. Do you believe that we need to in some way nudge that back? And believe me, I happen to believe that those people who are opposed to the Iraq War -- and we heard a lot of rhetoric about it -- never were willing to act on that. And that's, you know, -- so that's one of their pieces we're here today discussing this issue. But let me just get to the heart of the matter. Do you as wise men who are advising us -- would you suggest that we need to grant more authority in this way to give a little bit more, how to say, emphasis on the legislative branch's role in conducting military operations? Is that what we need to do? Is that what this is all about? BAKER: No, not at all, Congressman. And that's not what this act seeks to do. And that's not what this act does. There are benefits in this act, we think, for the executive branch and for the legislative branch. And what this act calls for is, frankly, what most presidents have done in most of the conflicts that we've been engaged in over the past 50 years. And we don't see this as granting more authority to one branch or the other. We see this as beneficial to both branches. There are benefits in here for each branch. And we think it would be beneficial as far as the general public is concerned because the testimony of 40 experts that came before us and the polling that -- if you look a the polling over the past 70 years, the American people when the question comes to war, they would like to think that the congressional and executive branches are on the same page. So they'd like to see this. All this does is enhance consultation. ROHRABACHER: Is that because there is a lack of -- there is an imbalance now and (inaudible)? BAKER: It's because it's not structured, number one. It's because this would tend, as Chairman Hamilton said, to build trust between the branches as that consultation took place. This specifies how presidents should consult. Right now you say consult with the Congress, presidents don't know -- you know, some presidents do it one way, and some do it another. This would tell you how to do it. And it would do it, by the way -- and I want to volunteer this for the chairman and the ranking member's benefit. It would do it in a way that locks in the jurisdiction of this committee, that does not take away any aspects of the jurisdiction of this committee. The resolution of approval called for in this legislation -- it specifically says -- would originate here in this committee and in Senate Foreign Relations. And so, it doesn't -- by setting up a consultative committee we are reflecting what presidents have done recently, most all the time in these cases of going to war with the leadership of the relevant committees and the leadership of the Congress. ROHRABACHER: Lee? HAMILTON: Well, if this bill... ROHRABACHER: In seconds. HAMILTON: Mr. Rohrabacher, if this bill becomes -- is perceived as tilting power, constitutional power to the Congress... ROHRABACHER: Yes. HAMILTON: Or if it is perceived the other way as tilting power to the executive branch, the bill is dead. It'll never pass because the other branch would resist so strongly. BAKER (?): It might pass, but it wouldn't become law. HAMILTON: What? BAKER (?): It might pass, but it wouldn't become law. HAMILTON: It would never become law is the better way to put it. ROHRABACHER: All of us need to exercise the authority that we've been given. We've been given... BERMAN: The time of the gentleman has expired. ROHRABACHER: Thank you. BERMAN: The gentleman from Missouri, Mr. Carnahan, is recognized for five minutes. CARNAHAN: Thank you, Mr. Chairman. I have two questions I'd like to present to the panel. First, presidents have used treaties and institutional authority such as the U.N. and NATO to avoid congressional authorization for going to war. Do the recommendations in the commission's report address this issue? And if so, how? And my second question -- what are the consequences if the president does not consult with the joint committee within three days after an emergency situation? And, frankly, what teeth are in this proposal that are absent from the current law? BAKER: Well, the... CHRISTOPHER: Mr. Chairman... BAKER: Go ahead, Chris. CHRISTOPHER: Congressman, on your first question, we dealt with that specifically in what in your discussion draft is called Section 7 on page eight saying the provision of this act shall not be affected by any treaty obligations of the United States. That means the president could not rely on a treaty in order to avoid the consultation provisions of this act. CARNAHAN: Thank you. BAKER: Now, with respect to what is the penalty, what is the sanction, it's diminished political support for a foreign engagement that the president might think is important to the national security of this country. Because if he doesn't comply with the law that's as plain and as clear as this and on the books, then he would suffer the political consequences of not doing so. We've already answered the question about whether we think the federal courts would grant jurisdiction of a dispute between a member of Congress and the president for his refusal to abide by the provision. But he would suffer, I think, substantial political damage. CHRISTOPHER: We believe, Congressman Carnahan, that you've got a win, win, win situation in this bill. We think the president will look favorably upon the bill because it frees his hand to address minor armed conflicts. It frees his hand to respond to emergencies. It provides him with specific people in Congress to consult with. Always a big question of who do I consult with in the executive branch. This answers the question for him and for the Congress. We think it's a win situation for the Congress because we empower the Congress to have a joint consultative committee fully staffed, bipartisan, fully resourced, available to classified information. It has a very clear mechanism for the Congress to vote up or down. And above everything else, it assures the Congress of the United States that it has a seat at the table when the decisions are being discussed. You don't always have that. You will be assured of it with this bill. It's a win for the American people. We went back 70 years, I believe, to look at poll results. And they show over and over and over again that the American people want this most serious of all questions to be a shared decision by members of Congress and, of course the executive branch. They do not want the decision of going to war to be made by one person, even if that person is the president. So we analyzed this statute, proposed statute as a win, win, win situation. BERMAN: Secretary Christopher? CHRISTOPHER: Mr. Chairman, I wonder if I could take a minute, not on anyone's time, to clarify the record. There has been quite a lot of confusion because the discussion draft that you have before you misstates the section. And the ranking member, I think, was on to this. If you look at page five where it refers in the middle of the page to Section 3-B, that should read Section A-2 -- sorry, Section 9 of Section 2. And the Section 3-A later in that should read Section 9, sub-paragraph 2. So that means that if there is a military action described in Section 3-B, that's the exception section, it becomes longer -- becomes a significant armed conflict that is longer than seven days, then the consultation provision provides (ph). And that will, I think, clarify the record and perhaps clarify some of the questions that have been raised. The exceptions in Section 9-2 are really subject to the consultation requirement if the conflict goes on longer than seven days. And thank you, Mr. Chairman, for the chance to clarify that. BAKER (?): If it morphs into a significant armed conflict, then the requirement to consultation (inaudible). BERMAN (?): Consultation trumps exceptions after seven days. CHRISTOPHER (?): Precisely. BAKER: OK. And there's a specific provision in the report that was misprinted in the committee print. BERMAN: The time of the gentleman has expired. We appreciate the clarification. The gentleman from Texas, Mr. Paul, is recognized for five minutes. PAUL: Thank you, Mr. Chairman. I hear three points that the panel has made that the war powers resolution has been ineffective. I agree with that. Should be repealed. I agree with that. The conclusion, though, I don't agree with that we need a new law. And I think that's where the real important part comes. When we, the Congress, passed the war powers resolution in the 1970s, it was motivated by the anti-war people thinking it would help. But the unintended consequence was disastrous. And not only the chaos that you described, but the fact that it legalized war for 90 days. That's what it did. It gave the power, greater power to the president, not less power to the president. And it took away this assumption that Congress has this responsibility to declare war. The panel says that they do not portend to resolve the constitutional issue, which is fine. That's not your job. And you reassure us that the courts seem to want to stay away, so we don't have to worry about the courts. But what we should worry about is our oath of office and our responsibilities here as congresspeople. And that to me is the ominous responsibility we have. But I am reassured by Mr. Baker's comment that if it tilts toward one branch of government maybe this thing won't get passed. And the way I interpret it it obviously does. And I will challenge the panel on this. And then they can answer my comments. And the reason I challenge this is first, the consultation isn't with the Congress. You pick out a few people, select people. And they're supposed to represent us. No, the responsibility for war is the Congress, not a select group. So the president starts a war. It lasts a week. He comes to this select committee, and they say, OK, it sounds like we'd better do it. Then after 30 days, we have this opportunity to vote. And then we vote that we disapprove of the war, and then we have to have another vote, a vote of disapproval. And so, we pass that. And then the president vetoes it. So what we're establishing here is the power of the president to pursue war with a select committee and then endorsed by the Congress with one- third of the Congress because he can veto this. I think this is going absolutely in the wrong direction. And I think Mr. Rohrabacher pointed out earlier it's mostly because we don't live up to our commitment. Once again, I think the panel makes the point that we do have the fallback. And the fallback is that we can deny funds. But then we're politically trapped. We never could do that in Korea or Vietnam. It goes on and on because then we get painted as un-American, we don't care about the troops. So once they get the upper hand, they can start the war, run the war, and a third of the Congress endorsed the war, get the people in harm's way. And then you said, you're un-American if you vote against this process. So I ask the panel show me why this is not tilting power to the executive branch and to a small group of congressmen rather than reestablishing the principle that in this country very precisely it was stated that the Congress declares war. This has no interference whatsoever for the president to act in emergencies. That is clear- cut. We know that, even before the war powers resolution. This doesn't change it. So why is it that -- why am I wrong in thinking that this is not tilting, that this is tilting toward the president and against the Congress? BAKER: I think you're wrong, Congressman, because if you don't do anything, you have the situation you're talking about. You're not going to, you're not going to have anything, and the presidents are going to do what they consider necessary to protect the national security of the country. And they have the power, they claim, under the Constitution to do that. And you're not going to be able to do anything about it. So you're better off, I think, we think, if you consult, if the two branches consult with each other rather than continuing to knock heads over who has the power, the ultimate power. Because we're not going to get an answer to that. PAUL: Of course, the Congress -- I put most of the blame on the Congress for being derelict in their responsibility. But if presidents just go out and start wars, sure the Congress has something to do with it. They shouldn't fund him. If it's necessary, they need to impeach the president. But this whole thing -- answer my question about one-third of the Congress. Actually, a third of the Congress and the president can pursue war. Is that not correct? BAKER: Well, you say that because the president has the right to veto bills presented to him under the presentment clause. That happens to be in the Constitution. If you don't like that, you can get a constitutional amendment passed that would delete that. PAUL: I don't... BAKER: I don't think you'll have any success. PAUL: I'm not arguing that point. I'm arguing whether or not I'm right that one-third of the Congress and the president can pursue war. That's the point. BAKER: No, you're not right because you have, under our legislation specifically, not only a right to vote, but a duty to vote with respect to it. And if it's voted down here in the Congress, you're just on the losing side. That's what that is. HAMILTON: Congressman Paul, may I... BERMAN: I'm really concerned that votes are going to come, and I want to get as many members as possible. So the five minutes has expired. And I apologize. It's a very interesting discussion. The gentleman from Georgia, Mr. Scott? SCOTT: Thank you very much, Mr. Chairman. And again, welcome to the committee. I wanted to kind of get to a point. I think we could get a better understanding if we try to get an applicable example here, especially within the area of what is a significant armed conflict. And I think that most immediate to us would be a decision coming affecting a terrorist attack, a reprisal to a terrorist attack or an attack from a nation that sponsors terrorists. Within your proposal, you are exempting limited acts of reprisal against terrorists or states that sponsor terrorism and not considering that as a significant armed conflict. So let's suppose if we said where would this fall. If, for example, we were to retaliate and had evidence that terrorists within the border on Pakistan and would involve the president making the decision to send armed forces into Pakistan. Where would that fall within your proposal as far as consultation? CHRISTOPHER: Congressman, if that response lasted longer than seven days, the consultation provisions would be required. If it would have simply lasted a day or two, that would be within the exemption. But the theory of our bill is that almost any action that was significant would be seven days or longer. And that would bring on the consultation provisions and thus invoke the whole series of things that follows on the consultations provisions. That is the vote up or down by the Congress. SCOTT: And so, that would trigger the president coming and meeting with the select committee. And now would you share with me, under your proposal, how are the members of this joint committee for consultation selected? CHRISTOPHER: They're selected in the statute by the leader of both the House and the Senate and the chairman and ranking member of the key committees, a group of about 20, the chairman and ranking member of this committee, chairman and ranking member of the Senate Foreign Relations Committee, the Armed Services Committee, the Intelligence Committee and so forth. So you get a group of congressional leaders previously designated so the president will know who he should consult with. SCOTT: Does the president have any input into before the selection is made as who is being considered? CHRISTOPHER: No, the selection is made deliberately by the legislation itself because in the past there's been a tendency of presidents, naturally enough, to consult with people who they think will agree with them. And this sets up a body that provides people from both parties and the key members of Congress on this particular issue. SCOTT: Now, in Section 5 of the legislation it calls for a congressional vote approving military action 30 days after its start. BERMAN: Mr. Scott, let me just interject one second. I am advised there was a timekeeper mistake. So you have about a minute or a minute and a quarter left, notwithstanding what the clock shows. SCOTT: OK. But thank you very much -- 30 days after its start. And if Congress does not approve of the military action, it could submit a resolution expressing its disapproval. My point is submitting a disapproval resolution seems unnecessary when Congress can simply practice its constitutional right and deny funding. So why is there a need for this additional measure? CHRISTOPHER: Well, Congress could certainly do that. SCOTT: I can't hear you, sir. I'm sorry. CHRISTOPHER: Mr. Scott, Congress could certainly do that. But we thought it was perhaps more propitious to require first a resolution of disapproval and then Congress can act within its internal rules to deny funding. Congress can deny funding at any point. But we thought from the standpoint of public impression that it's a better theory to have the Congress go ahead and exercise their power of disapproval. Hence the American people would know that Congress had not only failed to approve, but they had disapproved. Then you could move to deny the funding if that was the will of Congress. HAMILTON: Appropriation bills often take a little time to come before the Congress. This would require the Congress to act rather quickly. BERMAN: The time of the gentleman has expired. The gentleman from Indiana, Mr. Burton? We're going to try and take Mr. Burton and Ms. Lee. But I understand the witnesses have to leave by 12:15. Am I correct in that? You don't want to come back and spend the afternoon with us? OK. (UNKNOWN): (OFF-MIKE) BERMAN: Well, if that's the case, then they will be -- unfortunately, the hearing will -- we will have to adjourn after our next two questioners. Mr. Burton? BURTON: Mr. Chairman, I'm going to just ask one question because I don't want to -- I know you want to get as many people involved as possible. This all boils down to there's going to be consultation. But as far as teeth is concerned, the only real teeth in this is public opinion. BAKER (?): Right. BURTON: If the president is hell-bent to go ahead with a conflict, even though he has a strong disagreement with the Congress, he's going to be able to do it. And so, the constitutional authority he has is in no way impaired. BAKER: That's correct, Congressman. That's right. BURTON: OK, that's all I want to know. I wanted to make sure. Thank you. BERMAN: The gentlelady from California? LEE: Thank you very much, Mr. Chairman. Let me reiterate again my belief and understanding that based on Section 8, Article 1, the Congress has the authority to declare war. I've been listening to what you have said with regard to the constitutional issues. And that's not what this is about. It's unfortunate that the Supreme Court hasn't ruled because it almost makes this Constitution moot. But I still believe in it. And so, let me ask you how this would work if, in fact -- and I'm going to go dead to the resolution of September 14th that I could not vote for. The Congress authorized the president to use force. It was a blank check. All it said was resolution that said against any organization, individuals or country connected to 9/11 or that harbored those connected with 9/11. It was a total blank check, three days after the horrific events of 9/11. How would this kick in? Because at this point, at this point, would this body, this consultative process sit down and say, "Mr. President, what countries are you talking about? Mr. President, how long would this resolution, this authority to use force be in effect?" Would this body say, "Mr. President, would this be in this region only? Mr. President, would this allow for terror? Mr. President, would this body be able to define these blank checks that we've been given to the administration to use force?" Because I'm concerned about this resolution still being in play, quite frankly. BAKER: No, Congresswoman, it wouldn't. But the Congress, of course, could come forward any time it wants to and limit the scope of that prior resolution. Our proposed statute is forward-looking. It doesn't have application to anything that's happened before, except to the extent that something happens that is a -- that meets the definition of significant armed conflict. Then there would be an obligation on the president for the ongoing consultations that we call for. LEE: But not retroactive at all? BAKER: No, it's forward-looking. LEE: OK. But had this resolution been -- had your bill been the law on 9/14, how would that have worked with the consultation process? BAKER: Well, assuming if it had been, if it had been, if it had been in law then, assuming that -- I assume there would have been consultation, as we call for here, between the president and the Congress. And if you'd still passed that same resolution, that resolution would be effective, but the president would have to have continuing consultations with you as it was implemented. LEE: So if the president wanted to use that resolution to go into another country, any country, would the president have to say, "OK, Congress, this is where we're going now," in terms of the use of force and military action? HAMILTON: The president has to spell out the scope and what he thinks the duration of the conflict may be. LEE: And where? HAMILTON: I don't think we say where. I think we say scope and duration. It could be covered under scope, I suppose. I do want to comment, Ms. Lee, on one of your -- we've had cited to us several times today as if it's definitive that the power to declare war resolves the constitutional question. It does in the mind of a lot of people. But the other side of the argument is that the commander in chief phrase resolves the question for people on the other side of the issue. And they both take their positions with equal intensity. And that is an argument that has proceeded for over 200 years in this country. Now, as the secretaries testified, we've said we just couldn't solve this problem on the commission. We wanted to find a way to improve consultation when you're confronted with this grave question. LEE: I understand that. And I can... HAMILTON: It's a very limited bill. And it does not deal with this constitutional question. LEE: No, I understand that. HAMILTON: Yes. LEE: And I'm just saying, though, I'm trying to see how this would work. HAMILTON: Yes, I understand. LEE: Because as a member of Congress, I'm of the... HAMILTON: Right. I was responding to your early comment about declaration, which others have made here. Quite frankly, I have a good bit of personal sympathy for that having served in a legislative branch. But to suggest that that sentence in the Constitution resolves the question is short of the mark. LEE: Thank you. BAKER: Mr. Chairman, may I just add that this bill, Congresswoman, will not satisfy the absolutists on either side of this issue. The congressionalists who think only that Congress has the power or has the preeminent power nor the executive branch people who think the president should have totally unlimited scope. But the fact of the matter is that over quite a number of years troops have been sent abroad 264 times. War has been declared five times. So we're trying to deal with a situation that we face and to increase the cooperation and consultation between the two branches.

## 2ac

### China Add on

#### A credible UN is also need to co-opt future hegemonic rivals such as China.

**Hirsh**, **2003** (Michael – former foreign editor at Newsweek, At War Without Ourselves, p. 2 and 87)

The international system and its institutions will be critical to another key dimension of the Permanent Quagmire: a strategy of institutional envelopment. This involves co-opting not only the backward nations of the Arab world into the international system but also the putative superpower of the twenty-first century, China, by molding their behavior through such institutions as the WTO and, yes, even the much-criticized UN Security Council. [He continues…] But the co-opting of Russia and China by the UN system, I will argue, may be the surest firewall against war in the twenty-first century. And as we will examine in detail in Chapter 7, the UN's many agencies, such as the United Nations Development Programme, are doing the dirty but necessary work of nation building.

### AT: T Prohibition

Contextual evidence proves

Stromseth, 93 [Copyright (c) 1993 Georgetown Law Journal Georgetown Law Journal March, 1993 81 Geo. L.J. 597 LENGTH: 34953 words SYMPOSIUM: Rethinking War Powers: Congress, the President, and the United Nations. NAME: JANE E. STROMSETH \* BIO: \* Associate Professor of Law, Georgetown University Law Center.]

C. THE CONTRACT MODEL REVISED

The contract model mitigates the drawbacks of the political accommodation model by establishing statutory numerical and purpose-based limits on U.S. participation in U.N. authorized military actions, rather than relying simply on the ongoing struggle between Congress and the President to determine the war powers balance in each case as it arises. The contract approach takes as its starting point the central role of Congress in making U.S. troops available to the United Nations, based on Congress's constitutional power to raise and support military forces and its power to declare war. Just as the Seventy-Ninth Congress expected that Congress [\*667] would determine how many troops would be placed "on call" for use by the Security Council, a modern contract model aims to ensure that Congress plays a constructive and significant role in determining the scope and nature of U.S. commitments to the United Nations in advance of conflict, rather than simply responding to presidential decisions in individual crises. In short, Congress is not just the "on/off switch" in particular cases; it would also help define in a more general and prospective way the contours of American participation in U.N. military operations. Under the contract model, authorization of the use of force by the U.N. Security Council does not replace the need for democratic deliberation by the United States Congress. The President retains the authority to defend the United States and its citizens from "sudden attack." But when the risk of war and great physical sacrifice is real, Congress should be involved in the decision to send American troops into combat, n349 even on behalf of the United Nations. On this view, congressional authorization would be required not only to establish the basic parameters of any "permanent" U.S. troop commitments to the United Nations, but also to send any substantial number of American soldiers into combat or other hostile situations that pose the risk of war. Recognizing that terms such as "substantial" and "risk of war" are subjective, the contract model attempts, as Senator Millikin urged in 1945, to draw some practical lines indicating where the President's power to conduct "policing operations" ends and the war powers of Congress begin. n350

#### Restrict doesn’t mean prohibit

**Coffey, 82** - US Circuit Judge, dissenting (VICTOR D. QUILICI, ROBERT STENGL, et al., GEORGE L. REICHERT, and ROBERT E. METLER, Plaintiffs-Appellants, v. VILLAGE OF MORTON GROVE, et al., Defendants-Appellees Nos. 82-1045, 82-1076, 82-1132 UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT 695 F.2d 261; 1982 U.S. App. LEXIS 23560, lexis)

Pursuant to section 83, a municipality can enact an ordinance reasonably restricting or confining the use and possession of firearms. A municipality can also require registration of firearm ownership. What the legislature has authorized is limited regulation of firearm possession by local units of government, but not prohibition. Section 83 does not allow a municipality such as Morton Grove to categorically prohibit handgun possession. [\*\*35] To limit or restrict involves a circumscription which falls far short of an absolute prohibition. "The words 'prohibit' and 'restrict' are not synonymous. They are not alike in their meaning in their ordinary use . . . . 'To restrict is to restrain within bounds; to limit; to confine and does not mean to destroy or prohibit.'"

### AT: Rana

#### Vote aff despite prior questions—impact timeframe means you gotta act on the best info available

Kratochwil, professor of international relations – European University Institute, 2008 (Friedrich, “The Puzzles of Politics,” pg. 200-213)

The lesson seems clear. Even at the danger of “fuzzy boundaries”, when we deal with “practice” ( just as with the “pragmatic turn”), we would be well advised to rely on the use of the term rather than on its reference (pointing to some property of the object under study), in order to draw the bounds of sense and understand the meaning of the concept. My argument for the fruitful character of a pragmatic approach in IR, therefore, does not depend on a comprehensive mapping of the varieties of research in this area, nor on an arbitrary appropriation or exegesis of any specific and self-absorbed theoretical orientation. For this reason, in what follows, I will not provide a rigidly specified definition, nor will I refer exclusively to some prepackaged theoretical approach. Instead, I will sketch out the reasons for which a pragmatic orientation in social analysis seems to hold particular promise. These reasons pertain both to the more general area of knowledge appropriate for praxis and to the more specific types of investigation in the field. The follow- ing ten points are – without a claim to completeness – intended to engender some critical reflection on both areas. Firstly, a pragmatic approach does not begin with objects or “things” (ontology), or with reason and method (epistemology), but with “acting” (prattein), thereby preventing some false starts. Since, **as historical beings placed in a** specific situations**, we do not have the luxury** of deferring decisions **until we have** found the “truth”, **we have to act and must do so always under time pressures and in the face of incomplete information.** Pre- cisely because the social world is characterised by strategic interactions, what a situation “is”, is hardly ever clear ex ante, because it is being “produced” by the actors and their interactions, and the multiple possibilities are rife with incentives for (dis)information. This puts a premium on quick diagnostic and cognitive shortcuts informing actors about the relevant features of the situ- ation, and on leaving an alternative open (“plan B”) in case of unexpected difficulties. Instead of relying on certainty and universal validity gained through abstraction and controlled experiments, we know that completeness and attentiveness to detail, rather than to generality, matter. To that extent, likening practical choices to simple “discoveries” of an already independently existing “reality” which discloses itself to an “observer” – or relying on optimal strategies – is somewhat heroic. These points have been made vividly by “realists” such as Clausewitz in his controversy with von Bülow, in which he criticised the latter’s obsession with a strategic “science” (Paret et al. 1986). While Clausewitz has become an icon for realists, only a few of them (usually dubbed “old” realists) have taken seriously his warnings against the misplaced belief in the reliability and use- fulness of a “scientific” study of strategy. Instead, most of them, especially “neorealists” of various stripes, have embraced the “theory”-building based on the epistemological project as the via regia to the creation of knowledge. A pragmatist orientation would most certainly not endorse such a position. Secondly, since acting in the social world often involves acting “for” someone, special responsibilities arise that aggravate both the incompleteness of knowledge as well as its generality problem. Since we owe special care to those entrusted to us, for example, as teachers, doctors or lawyers, we cannot just rely on what is generally true, but have to pay special attention to the particular case. Aside from avoiding the foreclosure of options, we cannot refuse to act on the basis of incomplete information or insufficient know- ledge, and the necessary diagnostic will involve typification and comparison, reasoning by analogy rather than generalization or deduction. Leaving out the particularities of a case, be it a legal or medical one, in a mistaken effort to become “scientific” would be a fatal flaw. Moreover, **there still remains the crucial element of “timing” –** of knowing when to act. Students of crises have always pointed out the importance of this factor but, in attempts at building a general “theory” of international politics analogously to the natural sci- ences, such elements are neglected on the basis of the “continuity of nature” and the “large number” assumptions. Besides, “timing” seems to be quite recalcitrant to analytical treatment.

#### Rana’s claim is too sweeping, the alt is impossible

**Cole, 12 –** professor of law at Georgetown (David, “Confronting the Wizard of Oz: National Security,

Expertise, and Secrecy” 44 Conn. L. Rev. 1617-1625 (2012), <http://scholarship.law.georgetown.edu/facpub/1085>)

Rana is right to focus our attention on the assumptions that frame modern Americans’ conceptions about national security, but his assessment raises three initial questions. First, it seems far from clear that there ever was a “golden” era in which national security decisions were made by the common man, or “the people themselves,” as Larry Kramer might put it.8 Rana argues that neither Hobbes nor Locke would support a worldview in which certain individuals are vested with superior access to the truth, and that faith in the superior abilities of so-called “experts” is a phenomenon of the New Deal era.9 While an increased faith in scientific solutions to social problems may be a contributing factor in our current overreliance on experts,10 I doubt that national security matters were ever truly a matter of widespread democratic deliberation. Rana notes that in the early days of the republic, every able-bodied man had to serve in the militia, whereas today only a small (and largely disadvantaged) portion of society serves in the military.11 But serving in the militia and making decisions about national security are two different matters. The early days of the Republic were at least as dominated by “elites” as today. Rana points to no evidence that decisions about foreign affairs were any more democratic then than now. And, of course, the nation as a whole was far less democratic, as the majority of its inhabitants could not vote at all.12 Rather than moving away from a golden age of democratic decision-making, it seems more likely that we have simply replaced one group of elites (the aristocracy) with another (the experts). Second, to the extent that there has been an epistemological shift with respect to national security, it seems likely that it is at least in some measure a response to objective conditions, not just an ideological development. If so, it’s not clear that we can solve the problem merely by “thinking differently” about national security. The world has, in fact, become more interconnected and dangerous than it was when the Constitution was drafted. At our founding, the oceans were a significant buffer against attacks, weapons were primitive, and travel over long distances was extremely arduous and costly. The attacks of September 11, 2001, or anything like them, would have been inconceivable in the eighteenth or nineteenth centuries. Small groups of non-state actors can now inflict the kinds of attacks that once were the exclusive province of states. But because such actors do not have the governance responsibilities that states have, they are less susceptible to deterrence. The Internet makes information about dangerous weapons and civil vulnerabilities far more readily available, airplane travel dramatically increases the potential range of a hostile actor, and it is not impossible that terrorists could obtain and use nuclear, biological, or chemical weapons.13 The knowledge necessary to monitor nuclear weapons, respond to cyber warfare, develop technological defenses to technological threats, and gather intelligence is increasingly specialized. The problem is not just how we think about security threats; it is also at least in part objectively based.

#### Perm do the plan reject the 1AC’s institutional war power narrative – the perm’s incorporation of other knowledge’s solves their ridiculous impact claim – Rana thinks the perm solves

RANA 2011 - A.B. summa cum laude from Harvard College and his J.D. from Yale Law School. He also earned a Ph.D. in political science at Harvard, where his dissertation was awarded the university's Charles Sumner Prize. He was an Oscar M. Ruebhausen Fellow in Law at Yale (Aziz Rana, “Who Decides on Security?”, August 11, 2011, <http://scholarship.law.cornell.edu/clsops_papers/87/>)

Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that no popular base exists to raise these questions. Unless such a base emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### AT: ESR 2AC

#### Doesn’t solve the UN advantage – congressional lead role key to reinforce UN substantive norms within the US system, creates capacity building and spurs broader legislative participation abroad, which sustains the UN, only Congress can create buy in via the power of the purse – fear of future reversal proves only Congress solves

McGuinness, 09 [Copyright (c) 2009 Willamette Law Review Willamette Law Review Spring, 2009 Willamette Law Review 45 Willamette L. Rev. 417 LENGTH: 15253 words PRESIDENTIAL POWER IN THE 21ST CENTURY SYMPOSIUM: ARTICLE: THE PRESIDENT, CONGRESS AND THE SECURITY COUNCIL: COUNTERTERRORISM AND THE USE OF FORCE THROUGH THE INTERNATIONALIST LENS NAME: Margaret E. McGuinness\* BIO: \* Associate Professor, University of Missouri Law School, p. lexis]

III. Congressional Participation in U.N. Counterterrorism Policy and the Democracy Deficit: The Internationalist Lens Given the legitimacy concerns with Security Council enforcement actions, I am reframing the question of congressional participation in use of force decisions by examining it through the internationalist lens. The mixed history of congressional involvement in presidential decisions to act through the U.N., and the current critiques - judicial and otherwise - of the U.N. counterterrorism programs, suggests additional imperatives for expanding and making more explicit a congressional role in U.S. participation at the Security Council. The rationales for such explicit involvement are both political and legal and can serve to address the democracy deficit at the domestic and international level. If U.S. adoption of the Charter and participation at the U.N. delegated broad power to the executive as a matter of U.S. constitutional law, international law increasingly has something to say about that particular delegation of powers. n130 As such, U.S. participation in the U.N. may require better democratic accountability both because of the democracy deficit in the U.N.'s own participatory structure, and also because perceptions of legitimacy and fairness are central underpinnings of international normative constraints on the use of force. n131 A focus on the norms at stake - defining terrorism, establishing rules governing the use of force against terrorists and terrorist organizations, and delineating the scope of human rights protections that constrain collective or unilateral counterterrorism policies - reveals that patterns of institutional behavior at the domestic and international levels of the international security system operate dialectically, influencing and affecting the operations of one another. Thus to continue dominant procedural modes and methods of the U.N. Security Council - secret, closed, non-transparent, counter-majoritarian - has the tendency to reinforce those norms among its member states. At the same time, failure to get ex ante legislative authority at home widens the democracy gap at the U.N. Security Council. Together, these patterns breed discontent and [\*446] distrust of states in resorting to U.N. enforcement measures to address terrorism. Some have argued that, while President Bush may have been on constitutionally firm ground in many of the unilateral domestic actions he undertook under the auspices of the GWOT, he would have gained considerable domestic political legitimacy, served to protect executive prerogatives, and strengthened the presidency as an institution had he more frequently sought explicit congressional approval for his policies (approval which would have been readily provided). n132 This policy argument can be applied to presidential participation at the Security Council. Even where it is not constitutionally required, seeking out ongoing congressional approval for participation in Council counterterrorism programs serves both to strengthen legitimacy of the executive at home and the legitimacy of the Council process itself.

#### Perm do both:

Solves the politics link --- Obama won’t backlash against himself

Solves prez powers – combination ensures just the CP’s mandate is followed

#### Perm do the CP - the plan text says the USFG – CP is just a potential re clarification

**Doesn’t solve terrorism – McGuinness says – the CP causes unilateral responses which don’t solve – only Congress creates the requisite multilateral force**

#### This counterplan is a voting issue for deterrence --- fiats the object on the resolution which kills aff offense AND it’s fiat artificially limits the topic, decreasing the scope of discussion and undermining real world education – independently the topic mandates the judge isn’t the executive - the impact is jurisdiction

#### Doesn’t solve global UN buy in or Alliances

Moss, 08 [“Undeclared War and the Future of U.S. Foreign Policy”, Kenneth B, Associate Professor, Felix Posen Chair in Modern Jewish History at Johns Hopkins, ISBN 978-0-8018-8856-4, page 221, \*Note\* the following card is missing some italics and capitalization that was in the original, it emerged out of long hours of typing out this entire book, for that I apologize, but I figured I should let people know, Pappas]

Congress certainly understands this last factor, but if Congress is determined to restore a better balance in presidential and congressional control over using force, senators and representatives must realize that failure to do so could further divide the United States from some international allies and friendly states. Much of that community is watching the 2007-8 debates to ascertain whether Congress will reject assertive presidential claims and reestablish a better balance in the process by which the United States decides to use military force. They see such steps as correcting independent, impulsive features of U.S. decision making. Admittedly, some American observers believe that such distance may be inevitable, even desirable, particularly if other governments are more concerned with how the United States adheres to intemational iaw when it makes decisions rather than the intent and outcome that Americans may see as justifying their actions. Fairly or not, a sizable sector of informed opinion in allied capitals judges the United States not only for its policies but also for inattention, even disregard, of its own constitution in both war and peace.

#### OLC either rubber stamps the prez or gets ignored

Sullum, 11 [Jacob Sullum is a senior editor at Reason magazine. To find out more about Jacob Sullum and read features by other Creators Syndicate writers and cartoonists, visit the Creators Syndicate Web page at [www.creators.com](http://www.creators.com), War Counsel: Obama Shops for Libya Advice That Lets Him Ignore the Law <http://www.creators.com/opinion/jacob-sullum/war-counsel-obama-shops-for-libya-advice-that-lets-him-ignore-the-law.html>]

During the Bush administration, when the Justice Department's Office of Legal Counsel got into the habit of rationalizing whatever the president wanted to do, Indiana University law professor Dawn Johnsen dreamed of an OLC that was willing to "say no to the president." **It turns out we have such an OLC now**. Unfortunately, as Barack Obama's defense of his unauthorized war in Libya shows, we do not have a president who is willing to take no for an answer. While running for president, Obama criticized George W. Bush's lawless unilateralism in areas such as torture, warrantless surveillance and detention of terrorism suspects. "The law is not subject to the whims of stubborn rulers," he declared in 2007, condemning "unchecked presidential power" and promising that under his administration there would be "no more ignoring the law when it is inconvenient." Obama's nomination of Johnsen to head the OLC, although ultimately blocked by Senate Republicans, was consistent with this commitment; his overreaching responses to threats ranging from terrorism to failing auto companies were not. Last week, by rejecting the OLC's advice concerning his three-month-old intervention in Libya's civil war, Obama sent the clearest signal yet that he is no more inclined than his predecessor to obey the law. Under the War Powers Act, a president who introduces U.S. armed forces into "hostilities" without a declaration of war must begin withdrawing those forces within 60 days unless Congress authorizes their deployment. Hence the OLC, backed by Attorney General Eric Holder and Defense Department General Counsel Jeh Johnson, told Obama he needed congressional permission to continue participating in NATO operations against Libyan dictator Moammar Gadhafi's forces. While the president can override the OLC's advice, that rarely happens. "Under normal circumstances," The New York Times noted, "the office's interpretation of the law is legally binding on the executive branch." In this case, rather than follow the usual procedure of having the OLC solicit opinions from different departments and determine which best comported with the law, Obama considered the office's position along with others more congenial to the course of action he had already chosen. Obama preferred the advice of White House Counsel Robert Bauer and State Department legal adviser Harold Koh, who argued that American involvement in Libya, which includes bombing air defenses and firing missiles from drone aircraft as well as providing intelligence and refueling services, does not amount to participating in "hostilities." A report that the Obama administration sent Congress says, "U.S. operations do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve the presence of U.S. ground troops, U.S. casualties or a serious threat thereof, or any significant chance of escalation into a conflict characterized by those factors." All that is irrelevant, since the War Powers Act says nothing about those criteria. According to the administration's logic, Congress has no say over the president's use of the armed forces as long as it does not involve boots on the ground or a serious risk of U.S. casualties — a gaping exception to the legislative branch's war powers in an era of increasingly automated and long-distance military action. As Harvard law professor Jack Goldsmith, a former head of the OLC, told the Times, "The administration's theory implies that the president can wage war with drones and all manner of offshore missiles without having to bother with the War Powers Resolution's time limits."

#### The counterplan is the status quo - 1ac Berman says

#### The aff is key middle ground---total flex causes worse decision-making in crises

Deborah N. Pearlstein 9, lecturer in public and international affairs, Woodrow Wilson School of Public & International Affairs, July 2009, "Form and Function in the National Security Constitution," Connecticut Law Review, 41 Conn. L. Rev. 1549, lexis nexis

It is in part for such reasons that studies of organizational performance in crisis management have regularly found that "planning and effective [\*1604] response are causally connected." n196 Clear, well-understood rules, formalized training and planning can function to match cultural and individual instincts that emerge in a crisis with commitments that flow from standard operating procedures and professional norms. n197 Indeed, "the less an organization has to change its pre-disaster functions and roles to perform in a disaster, the more effective is its disaster [sic] response." n198 In this sense, a decisionmaker with absolute flexibility in an emergency-unconstrained by protocols or plans-may be systematically more prone to error than a decision-maker who is in some way compelled to follow procedures and guidelines, which have incorporated professional expertise, and which are set as effective constraints in advance.¶ Examples of excessive flexibility producing adverse consequences are ample. Following Hurricane Katrina, one of the most important lessons independent analysis drew from the government response was the extent to which the disaster was made worse as a result of the lack of experience and knowledge of crisis procedures among key officials, the absence of expert advisors replacing those rules with more than the most general guidance about custodial intelligence collection. available to key officials (including the President), and the failure to follow existing response plans or to draw from lessons learned from simulations conducted before the fact. n199 Among the many consequences, [\*1605] basic items like food, water, and medicines were in such short supply that local law enforcement (instead of focusing on security issues) were occupied, in part, with breaking into businesses and taking what residents needed. n200¶ Or consider the widespread abuse of prisoners at U.S. detention facilities such as Abu Ghraib. Whatever the theoretical merits of applying coercive interrogation in a carefully selected way against key intelligence targets, n201 the systemic torture and abuse of scores of detainees was an outcome no one purported to seek. There is substantial agreement among security analysts of both parties that the prisoner abuse scandals have produced predominantly negative consequences for U.S. national security. n202 While there remain important questions about the extent to which some of the abuses at Abu Ghraib were the result of civilian or senior military command actions or omissions, one of the too often overlooked findings of the government investigations of the incidents is the unanimous agreement that the abuse was (at least in part) the result of structural organization failures n203 -failures that one might expect to [\*1606] produce errors either to the benefit or detriment of security.¶ In particular, military investigators looking at the causes of Abu Ghraib cited vague guidance, as well as inadequate training and planning for detention and interrogation operations, as key factors leading to the abuse. Remarkably, "pre-war planning [did] not include[] planning for detainee operations" in Iraq. n204 Moreover, investigators cited failures at the policy level- decisions to lift existing detention and interrogation strictures without n205 As one Army General later investigating the abuses noted: "By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved." n206 It was thus unsurprising that detention and interrogation operations were assigned to troops with grossly inadequate training in any rules that were still recognized. n207 The uncertain effect of broad, general guidance, coupled [\*1607] with the competing imperatives of guidelines that differed among theaters of operation, agencies, and military units, caused serious confusion among troops and led to decisionmaking that it is overly kind to call arbitrary. n208¶ Would the new functionalists disagree with the importance of government planning for detention operations in an emergency surrounding a terrorist nuclear attack? Not necessarily. Can an organization anticipate and plan for everything? Certainly not. But such findings should at least call into question the inclination to simply maximize flexibility and discretion in an emergency, without, for example, structural incentives that might ensure the engagement of professional expertise. n209 Particularly if one embraces the view that the most potentially damaging terrorist threats are nuclear and biological terrorism, involving highly technical information about weapons acquisition and deployment, a security policy structure based on nothing more than general popular mandate and political instincts is unlikely to suffice; a structure that systematically excludes knowledge of and training in emergency response will almost certainly result in mismanagement. n210 In this light, a general take on role effectiveness might suggest favoring a structure in which the engagement of relevant expertise in crisis management is required, leaders have incentives to anticipate and plan in advance for trade-offs, and [\*1608] organizations are able to train subordinates to ensure that plans are adhered to in emergencies. Such structural constraints could help increase the likelihood that something more than arbitrary attention has been paid before transcendent priorities are overridden.

#### Syria denies the perception link and the DA

**Rothkopf, 9/1/13** – editor of Foreign Policy (David, “Rothkopf: 5 consequences of President Obama's Syria decision” <http://www.newsday.com/opinion/oped/rothkopf-5-consequences-of-president-obama-s-syria-decision-1.5993890>)

3. He's now boxed in for the rest of his term. Whatever happens with regard to Syria, the larger consequence of the president's action will resonate for years. The president has made it highly unlikely that at any time during the remainder of his term he will be able to begin military action without seeking congressional approval. It is understandable that many who have opposed actions (see: Libya) taken by the president without congressional approval under the War Powers Act would welcome Obama's newly consultative approach. It certainly appears to be more in keeping with the kind of executive-legislative collaboration envisioned in the Constitution. While America hasn't actually required a congressional declaration of war to use military force since the World War II era, the bad decisions of past presidents make Obama's move appealing to the war-weary and the war-wary. But whether you agree with the move or not, it must be acknowledged that now that Obama has set this kind of precedent -- and for a military action that is exceptionally limited by any standard (a couple of days, no boots on the ground, perhaps 100 cruise missiles fired against a limited number of military targets) -- it will be very hard for him to do anything comparable or greater without again returning to the Congress for support. And that's true whether or not the upcoming vote goes his way. 4. This president just dialed back the power of his own office. Obama has reversed decades of precedent regarding the nature of presidential war powers -- and whether you prefer this change in the balance of power or not, as a matter of quantifiable fact he is transferring greater responsibility for U.S. foreign policy to a Congress that is more divided, more incapable of reasoned debate or action, and more dysfunctional than any in modern American history. Just wait for the Rand Paul filibuster or similar congressional gamesmanship. The president's own action in Libya was undertaken without such approval. So, too, was his expansion of America's drone and cyber programs. Will future offensive actions require Congress to weigh in? How will Congress react if the president tries to pick and choose when this precedent should be applied? At best, the door is open to further acrimony. At worst, the paralysis of the U.S. Congress that has given us the current budget crisis and almost no meaningful recent legislation will soon be coming to a foreign policy decision near you. Consider House Speaker John Boehner's statement that Congress will not reconvene before its scheduled Sept. 9 return to Washington. Perhaps more important, what will future Congresses expect of future presidents? If Obama abides by this new approach for the next three years, will his successors lack the ability to act quickly and on their own? While past presidents have no doubt abused their War Powers authority to take action and ask for congressional approval within 60 days, we live in a volatile world; sometimes security requires swift action. The president still legally has that right, but Obama's decision may have done more -- for better or worse -- to dial back the imperial presidency than anything his predecessors or Congress have done for decades. 5. America's international standing will likely suffer. As a consequence of all of the above, even if the president "wins" and persuades Congress to support his extremely limited action in Syria, the perception of America as a nimble, forceful actor on the world stage and that its president is a man whose word carries great weight is likely to be diminished. Again, like the shift or hate it, foreign leaders can do the math. Not only is post-Iraq, post-Afghanistan America less inclined to get involved anywhere, but when it comes to the use of U.S. military force (our one indisputable source of superpower strength) we just became a whole lot less likely to act or, in any event, act quickly. Again, good or bad, that is a stance that is likely to figure into the calculus of those who once feared provoking the United States.

#### The plan bolsters the credibility of threats – solves escalation

Waxman 8/25/13 (Matthew Waxman is a law professor at Columbia Law School, where he co-chairs the Roger Hertog Program on Law and National Security. He is also Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations and a member of the Hoover Institution Task Force on National Security and Law. He previously served in senior policy positions at the State Department, Defense Department, and National Security Council. After graduating from Yale Law School, he clerked for Judge Joel M. Flaum of the U.S. Court of Appeals and Supreme Court Justice David H. Souter, “The Constitutional Power to Threaten War” Forthcoming in YALE LAW JOURNAL, vol. 123, 2014, August 25th DRAFT)

Part II draws on several strands of political science literature to illuminate the relationship between war powers law and threats of force. As a descriptive matter, the swelling scope of the president’s practice in wielding threatened force largely tracks the standard historical narrative of war powers shifting from Congress to the President. Indeed, adding threats of force to that story might suggest that this shift in powers of war and peace has been even more dramatic than usually supposed, at least in terms of how formal congressional checks are exercised. Part II also shows, however, that congressional checks and influence – even if not formal legislative powers – operate more robustly and in different ways to shape strategic decision-making than usually supposed in legal debates about war powers, and that **these checks and influence can** enhance **the** potency of threatened force. This Article thus fits into a broader scholarly debate now raging about the extent to which the modern President is meaningfully constrained by law, and in what ways. 20 Recent political science scholarship suggests that Congress already exerts constraining influences on presidential decisions to threaten force, even without resorting to binding legislative actions. 21 Moreover, when U.S. security strategy relies heavily on threats of force, credibility of signals is paramount. Whereas it often used to be assumed that institutional checks on executive discretion undermined democracies’ ability to threaten war credibly, some **recent political science scholarship** also offers reasons to expect that congressional political constraints can actually bolster the credibility of U.S. threats. 22

#### Restrictions inevitable---the aff prevents haphazard ones which are worse

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, is the author of Law and the Long War: The Future of Justice in the Age of Terror and is also a member of the Hoover Institution's Task Force on National Security and Law, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 17

A new administration now confronts the same hard problems that plagued its ideologically opposite predecessor, and its very efforts to turn the page on the past make acute the problems of institutionalization. For while the new administration can promise to close the detention facility at Guantanamo Bay and can talk about its desire to prosecute suspects criminally, for example, it cannot so easily forswear noncriminal detention. While it can eschew the term "global war on terror," it cannot forswear those uses of force—Predator strikes, for example—that law enforcement powers would never countenance. Nor is it hastening to give back the surveillance powers that Congress finally gave the Bush administration. In other words, its very efforts to avoid the Bush administrations vocabulary have only emphasized the conflicts hybrid nature—indeed- emphasized that the United States is building something new here, not merely applying something old.¶ That point should not provoke controversy. The evidence that the United States is fumbling toward the creation of hybrid institutions to handle terrorism cases is everywhere around us. U.S. law, for example, now contemplates extensive- probing judicial review of detentions under the laws of war—a naked marriage of criminal justice and wartime traditions. It also contemplates warrantless wiretapping with judicial oversight of surveillance targeting procedures—thereby mingling the traditional judicial role in reviewing domestic surveillance with the vacuum cleaner-type acquisition of intelligence typical of overseas intelligence gathering. Slowly but surely, through an unpredictable combination of litigation, legislation, and evolutionary developments within executive branch policy, the nation is creating novel institutional arrangements to authorize and regulate the war on terror. The real question is not whether institutionalization will take place but whether it will take place deliberately or haphazardly, whether the United States will create through legislation the institutions with which it wishes to govern itself or whether it will allow an endless sequence of common law adjudications to shape them.¶ The authors of the chapters in this book disagree about a great many things. They span a considerable swath of the U.S. political spectrum, and they would no doubt object to some of one another's policy prescriptions. Indeed, some of the proposals are arguably inconsistent with one another, and it will be the very rare reader who reads this entire volume and wishes to see all of its ideas implemented in legislation. What binds these authors together is not the programmatic aspects of their policy prescriptions but the belief in the value of legislative action to help shape the contours of the continuing U.S. confrontation with terrorism. That is, the authors all believe that Congress has a significant role to play in the process of institutionalization—and they have all attempted to describe that role with reference to one of the policy areas over which Americans have sparred these past several years and will likely continue sparring over the next several years.

### AT: Politics

#### Restoring UN credibility is needed to provide governance and predictability to the global economy – failure to do so risks global recession and crises.

**Sawa**, 5/5/**2003** (Takamitsu – professor of economics at Kyoto University, Japan Times, p. lexis)

The U.S. financial industry, which reaped handsome profits through economic unilateralism in the 1990s, is likely to suffer under Bush's military unilateralism. If the world is destabilized and thrown into confusion, the industry will have trouble managing their portfolios; they won't find low-risk investments with yields exceeding 30 percent, as they did in the 1990s. While the Clinton administration was supported by the Treasury Department and the financial industry, the Bush administration will likely derive support from the Defense Department and defense industry. Military unilateralism, backed by U.S. neoconservatives, will no doubt cast a shadow over the U.S. economy. With the Tokyo stock market affected by the New York stock market to an almost abnormal extent and East Asian economies highly dependent on exports to the U.S. for economic growth, this shadow could trigger a global recession. The U.S., which governed the global economy through the 1990s, is apt to abandon that role due to the strong influence of the "neocons." If currency crises recur in East Asia, Eastern Europe or South America through frequent hedge-fund transfers of capital, a serious financial crisis could hit the global economy because of the lack of governance. The U.N. is capable of governing the world economy, but U.S. neocons have caused the U.N. to lose prestige. Although Japan did not take part in the military strike on Iraq, it supported Washington's actions, which included ignoring the U.N. Thus Japan, too, is accountable for the consequences of the lack of governance in the world economy.

#### No econ decline war---best and most recent data

Daniel W. Drezner 12, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” <http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5_The-Irony-of-Global-Economic-Governance.pdf>

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict, there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder. ¶ The aggregate data suggests otherwise, however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined since the start of the financial crisis – as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict;

the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, “the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40¶ None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

#### No impact---there’ll be pressure to take action to avoid long-term impacts

Laura Matthews 13, January 22nd, 2013, "What Would Happen if the US Debt Ceiling Isn't Extended?" International Business Times, www.ibtimes.com/what-would-happen-if-us-debt-ceiling-isnt-extended-1031412

Political historian Thomas Whalen believes another credit downgrade need not happen this time. “It’s unnecessary,” Whalen, a professor at Boston University, said. “It’s a self-imposed economic crisis. It doesn’t need to happen.”¶ According to Whalen, a U.S. default is a scenario no one wants to think about, because if push comes to shove, U.S. financial institutions -- many of which support the Republicans -- will react.¶ "There's too much at stake," he said.¶ When asked how inaction on the debt ceiling could affect the wallets of ordinary Americans, Ron Haskins, a former White House and congressional advisor on welfare issues, sees two problems.¶ In the short-term, the impact won’t be so immediate if the Treasury doesn’t pay its bills on time. However, Haskins said payments would stop for people like defense contractors. The bigger impact, according to Haskins, who is now a senior fellow at Brookings, would be on U.S. interest rates.¶ “Our rates are low, and, if they go up, that would affect the market, impacting home sales and credit cards,” he said. “Interest rates are front and center for anyone with interest in America's debt.”¶ The U.S. Senate hasn’t approved a budget since 2009 and has been using “continuing resolutions” to sustain the flow of money that enables the government to keep functioning. Republicans are hoping that including language in the debt-ceiling measure that forces Senate Democrats to come up with a formal budget or go without a paycheck will up the pressure.¶ ¶ A government shutdown could affect teachers, health care workers and fire fighters, Haskins said. But he doesn’t believe that if this should happen, the shutdown would be for long enough to affect life and property greatly.¶ “If you close the government, it won’t last that long,” he said. “The pressure will be enormous. It won’t be long enough to have all these long-term impacts.”

#### It’s temporary and empirically no impact

**Taylor, 9/19/13** (Andrew, Associated Press, “Here's the truth: The government doesn't shut down” <http://www.wtnh.com/news/politics/heres-the-truth-the-government-doesnt-shut-down-nd13-jgr>)

From a practical perspective, shutdowns usually aren't that big a deal. They happened every year when Jimmy Carter was president, averaging 11 days each. During President Reagan's two terms, there were six shutdowns, typically just one or two days apiece. Deals got cut. Everybody moved on.

In 1995-96, however, shutdowns morphed into political warfare, to the dismay of Republicans who thought they could use them to drag Clinton to the negotiating table on a balanced budget plan.

Republicans took a big political hit, but most Americans suffered relatively minor inconveniences like closed parks and delays in processing passport applications. Some 2,400 workers cleaning up toxic waste sites were sent home, and there were short delays in processing veterans' claims.

Under a precedent-setting memorandum by Reagan budget chief David Stockman, federal workers are exempted from furloughs if their jobs are national security-related or if they perform essential activities that "protect life and property."

#### GOP won’t back down – insiders and predictive ev

Boles 10-1 (Corey, “Senate: Shutdown May Persist More Than Two Weeks, Brush Against Debt Ceiling,” Washington Wire, <http://blogs.wsj.com/washwire/2013/10/01/senate-shutdown-may-persist-more-than-two-weeks-brush-against-debt-ceiling/>)

Don’t expect the government shutdown to end soon.

That was the message Tuesday from Senate Republican leaders and Democratic aides who said there is a growing likelihood that non-essential parts of the federal government remain shuttered for more than two weeks until lawmakers agree on how to increase the debt ceiling.

“I’d like to resolve the current issue before we move on to the debt limit, but it’s not clear to me when that gets resolved,” Mr. McConnell said at a press conference after a closed door meeting of Senate Republicans, hours after the shutdown began.

Mr. Thune, a member of the Senate GOP leadership team, said Democrats would like to see the shutdown continue until the debt ceiling is increased. He said he’d prefer to deal with the short-term government funding question separately than the debt ceiling.

Two top Senate Democratic aides also said they thought the two issues would end up dovetailing together, saying that from their perspective the next move was up to House Republicans. Democrats are unlikely to negotiate with Republicans over a short-term government funding bill, so the delay will continue until House Republicans agree to take up a Senate-passed six-week funding bill, the aides said.

“It’s increasingly likely that the two get done together,” one of the aides said. If much of the federal government hadn’t shut down on Tuesday morning and the Senate were in session on Tuesday, senators would likely already be debating the debt ceiling increase, one of the Democratic aides said.

#### B) Conclusive ev

Allen 10-2 (Mike, “SHUTDOWN DAY 2 -- ENDGAME MAY BE WEEKS AWAY -- OBAMA SHORTENS ASIA TRIP -- GEORGE WILL leaves ABC for Fox -- SHUTDOWN stars in '14 ads - LOBBYIST SECRET gets him past security lines,” Politico Playbook, <http://www.politico.com/playbook/1013/playbook11806.html>)

THE 1 PARAGRAPH TO READ: All signs point to a shutdown of at least two weeks, with an exit strategy on the spending bill running into negotiations over raising the debt ceiling, which has a deadline of Oct. 17. No real negotiations are going on. A top Dem aide tells us: “The Republicans will get their wish. They will get to tie the CR [continuing resolution] and debt ceiling. And then they will realize they are totally screwed. … Because they will have caught their own tail. … [W]ait until their own money supporters tell them they have gone too far. Can you imagine if they really let us default? They will be digging out for years.”

#### The DA is not intrinsic – it’s within the agential ambit of the USFG to do the plan and pass debt ceiling

#### Plan is a win and no veto

Berman, et al, 09 [REP. HOWARD L. BERMAN HOLDS A HEARING ON THE RECOMMENDATIONS OF THE NATIONAL WAR POWERS COMMISSION Date: March 05, 2009 Location: WASHINGTON, D.C. Committee: Committee on Foreign Affairs. House Permalink: <HTTP://congressional.proquest.com.proxy.lib.umich.edu/congressional/docview/t65.d40.c3f69998000086dc?accountid=14667> Speaker REP. HOWARD L. BERMAN, CHAIRMAN Terms Subjects: War HOUSE; HRG; POWERS Body HOUSE COMMITTEE ON FOREIGN AFFAIRS HOLDS A HEARING ON THE RECOMMENDATIONS OF THE NATIONAL WAR POWERS COMMISSION MARCH 5, 2009]

CHRISTOPHER: We believe, Congressman Carnahan, that you've got a win, win, win situation in this bill. We think the president will look favorably upon the bill because it frees his hand to address minor armed conflicts. It frees his hand to respond to emergencies. It provides him with specific people in Congress to consult with.

Always a big question of who do I consult with in the executive branch. This answers the question for him and for the Congress. We think it's a win situation for the Congress because we empower the Congress to have a joint consultative committee fully

#### Political capital isn’t key and Obama isn’t spending it

**Allen, 9/27/13** - politics reporter for Politico (Jonathan, “President Obama’s distance diplomacy” <http://www.politico.com/story/2013/09/government-shutdown-barack-obama-house-gop-97483.html?hp=t3_3>)

The White House’s distance diplomacy with Republicans is an approach that tacitly acknowledges three inescapable realities: There’s no one to negotiate with on the GOP side; Obama’s direct involvement in a pact would poison it for many rank and file Republicans; and Democrats don’t trust him not to cut a lousy deal.

Indeed, Democrats are urging Obama to stay at arm’s length from Congress so there’s no confusion over his message that he won’t negotiate on an increase in the debt limit, which the nation is expected to breach as early as Oct. 17 without legislative action.

“I believe the president has made it very clear, as we have tried to make it clear: There are no negotiations. We’re through,” Senate Majority Leader Harry Reid (D-Nev.) told POLITICO.

In past installments of the fiscal-failure soap opera, overheated rhetoric about government shutdowns and a default on the national debt has been matched by sober and direct deal-making behind the scenes — usually in the form of a virtual handshake between Vice President Joe Biden and Senate Minority Leader Mitch McConnell.

In the winter 2010 debate over tax cuts, Biden and McConnell agreed to extend all of the Bush-era tax cuts for two years, infuriating the left. In 2011, Boehner and Obama secretly discussed for weeks a possible grand-bargain deal — but when the details were leaked, Democrats were furious and the negotiations fell apart. And in 2012, Biden and McConnell averted the so-called fiscal cliff — but that greatly upset Reid, who believed the White House gave away too much to Republicans whose backs were against the wall.

Indeed, many Democrats had buyer’s remorse on aspects of those agreements, particularly a budget sequestration plan that has squeezed domestic and military spending, and the locking in of much of the Bush tax rates.

When Chief of Staff Denis McDonough and other senior White House aides quietly discussed budget issues with a group of Senate Republicans earlier this year, top Democrats believed it made little sense to continue negotiations that appeared to be going nowhere and didn’t seem likely to help their party.

So they’ve asked Obama himself to steer clear of this round of the debt fight and try to force Republicans to come to him. The Senate, on a party line 54-44 vote on Friday, sent a bill that would keep the government operating but dropped a House provision defunding Obamacare. Now the House is expected to load up the measure with more provisions that aren’t acceptable to Democrats — though it has been hard for House GOP leaders to herd their troops on a budget bill and a separate plan to raise the debt ceiling.

“You first need the Republicans to have a position to negotiate – they don’t yet,” Sen. Chuck Schumer (D-N.Y.), who often advises the White House on strategy, said Friday when asked about Obama’s posture. “Until the House Republican Caucus figures out what it wants to do, nobody can deal with them.”

Other than a terse phone call to Speaker John Boehner last Friday to reiterate that he won’t negotiate on the debt limit, Obama hasn’t talked to House Republicans — the key constituency in the fight.

The White House has let Reid take the lead in the latest fights, even scrapping a potential meeting at the White House with Obama and the three other congressional leaders to allow the process to play out on Capitol Hill. With Republicans fighting with each other over Obamacare, Democrats believe it makes far more sense to keep the focus on the GOP intraparty warfare, rather than risk putting Obama middle of a politically sensitive negotiation.

Republicans sourly note that Obama has been quicker to talk with Russian President Vladimir Putin — and now Iranian President Hassan Rouhani — than with House Speaker John Boehner.

“Grandstanding from the president, who refuses to even be a part of the process, won’t bring Congress any closer to a resolution,” said Brendan Buck, a spokesman for House Speaker John Boehner.

When McDonough went to the Hill this week for closed-door talks, it was to reassure fellow Democrats that the president wouldn’t fold early, as he’s been accused of doing in past budget battles.

Obama isn’t expected to meet with congressional leaders until after the Tuesday deadline to stop a government shutdown.

Asked if he believed that Obama would eventually have to engage directly in the fiscal fights, Reid said: “Not on the debt ceiling and not on the CR. Maybe on something else – but not these two. We have to fund the government and pay our bills.”

Whether Obama can sustain his no-negotiation position on the debt ceiling remains to be seen. Senate Republicans — even those who have balked at calls to use the threat of a government shutdown to defund Obamacare — say the president won’t get a clean debt ceiling increase.

“It’s what’s wrong with the government right now,” said Sen. Roy Blunt (R-Mo.), who voted to break a GOP-led filibuster blocking the continuing resolution. “I suppose the Congress might say we don’t want a negotiation on the debt ceiling either.”

If Obama can’t get 60 votes in the Senate for a clean debt ceiling increase, he will very likely to have to engage in direct talks with Republicans, even Democrats privately concede.

But for now, Democratic leaders say the president is doing what he has to: Making speeches to attack Republicans, and letting his allies on the Hill deal with the nitty-gritty of legislating and horse-trading.

Republican Rep. Mike Rogers (R-Mich.), who has worked with the White House on national security issues, says the president’s always had a “laissez-faire” approach to Congress.

#### Obama’s PC is low and decreasing

**Steinhauser, 9/26/13 –** CNN Political Editor (Paul, “Obama's support slips; controversies, sluggish economy cited” <http://www.cnn.com/2013/09/26/politics/cnn-poll-of-polls-obama/?hpt=po_c2>)

As he battles with congressional Republicans over the budget and the debt ceiling, and as a key component of his health care law kicks in, new polling suggests that President Barack Obama's standing among Americans continues to deteriorate.

The president's approval rating stands at 45%, according to a CNN average of four national polls conducted over the past week and a half. And a CNN Poll of Polls compiled and released Thursday also indicates that Obama's disapproval rating at 49%.

In the afterglow of his re-election and second inauguration, the percentage of those approving of Obama's job performance hovered in the low 50s as the year began, according to CNN Poll of Poll averages.

But his numbers slipped to the upper 40s by spring and now have edged down to the mid 40s. At the same time, his disapproval numbers have edged up from the low 40s to right around the 50% mark.

Anxiety and skepticism over the Affordable Care Act, better known as Obamacare, continuing concerns over the sluggish economy, and a drop in the president's approval on foreign policy -- once his ace in the hole -- all appear to be contributing to the slide of Obama's general approval rating.

"Not a precipitous drop, but more like a continued erosion in the president's numbers," says CNN Chief Political Correspondent Candy Crowley. "The Boston Marathon bombings, Edward Snowden's 'big brother' revelations, the 'non-coup' in Egypt, the 'now we bomb, now we don't' policy in Syria, an economic recovery that remains disappointing, the uncertainty of how/what will change under the new health care system, shall I go on?"

"It all adds up to an awful lot of uncertainty and unfairly or not, uncertainty tends to breed lower poll numbers for the guy in charge," added Crowley, anchor of CNN's "State of the Union."

Besides being the main indicator of a president's standing with the public, a presidential approval rating is a good gauge of his clout in dealing with Congress.

The drop in his numbers comes as the president pushes back against attempts by congressional Republicans to use deadlines to keep the federal government funded and to extend the nation's debt ceiling to try and defund the health care law.

A slew of national polls conducted this month indicate that a majority doesn't support shutting down the government in order to defund Obamacare.

But if the fight shifts to the debt ceiling, public opinion appears to turn against the president, who reiterated on Thursday that he will not negotiate with the GOP in Congress over extending the debt ceiling.

## case

### Terror

#### Mueller’s wrong about everything

**Allison, 9** – Douglas Dillon Professor of Government and Director of the Belfer Center for Science and International Affairs at Harvard University's Kennedy School of Government ( Graham “A Response to Nuclear Terrorism Skeptics” Brown Journal of World Affairs, Hein Online)

What drives Mueller and other skeptics to arrive at such different conclusions?

They make four major claims that merit serious examination and reflection.

CLAIM 1: No ONE IS SERIOUSLY MOTIVATED TO CONDUCT A NUCLEAR TERRORIST ATTACK.

More than a decade ago, no one could have imagined that a Japanese doomsday cult would be sufficiently motivated to disseminate sarin gas on the Tokyo subway. Indeed, at the time of that attack, the consensus among terrorism experts was that terrorists wanted an audience and sympathy-not casualties. The leading American student of terrorism, Brian Jenkins, summarized the consensus judgment in 1975: "terrorists seem 34 to be more interested in having a lot of people watching, not a lot of people dead.""

As intelligence officials later testified, an inability to recognize the shifting modus operandi of some terrorist groups was part of the reason why members of Aum Shinrikyo "were simply not on anybody's radar screen."" This, despite the fact that the group owned a 12-acre chemical weapons factory in Tokyo, had $1 billion in its bank account, and had a history of serious nuclear ambitions.'9

Similarly, before the 9/11 attacks on the World Trade Center and Pentagon that extinguished 3,000 lives, few imagined that terrorists could mount an attack upon the American homeland that would kill more Americans than the Japanese attack at Pearl Harbor. As Secretary Rice testified to the 9/11 Commission, "No one could have imagined them taking a plane, slamming it into the Pentagon and into the World Trade Center, using planes as a missile." 20 For most Americans, the idea of international terrorists mounting an attack on our homeland and killing thousands of citizens was not just unlikely, but inconceivable. But assertions about what is "imaginable" or "conceivable" are propositions about individuals' mental capacities, not about what is objectively possible.

In fact, Al Qaeda's actions in the decade prior to the 9/11 attacks provided clear evidence both of intent and capability. While its 1993 attack on the World Trade Center succeeded in killing only six people, Ramzi Yousef, the key operative in this case, had planned to collapse one tower onto the second, killing 40,000. In the summer of 1996, Osama bin Laden issued a fatwa declaring war upon the United States. Two years later, Al Qaeda attacked the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, killing more than 200 people. In October 2000, Al Qaeda attacked the warship USS Cole. Throughout this period, Al Qaeda's leadership was running thousands of people through training camps, preparing them for mega-terrorist attacks.

Notwithstanding Aum Shinrikyo's brazen attack, Al Qaedas audacious 9/11 attack, and the recent attacks in Mumbai that killed 179 people, Mueller maintains that "terrorists groups seem to have exhibited only limited desire... they have discovered that the tremendous effort required is scarcely likely to be successful." He asserts that the evidence about Al Qaedas nuclear intentions ranges from the "ludicrous to the merely dubious," and that those who take Al Qaeda's nuclear aspiration seriously border on "full-on fantasyland."1

Even scholars who would have been inclined to agree with this point of view have revised their judgment as new facts have accumulated. In 2006, for example, Jenkins reversed the basic proposition that he had set forth three decades earlier. In his summary: "In the 1970s the bloodiest incidents caused fatalities in the tens. In the 1980s, fatalities from the worst incidents were in the hundreds; by the 1990s, attacks on this scale had become more frequent. On 9/11 there were thousands of fatalities, and there could have been far more. We now contemplate plausible scenarios in which tens of 35 thousands might die." Underlining the contrast with his own 1975 assessment, Jenkins now says: "Jihadists seem ready to murder millions, if necessary. Many of today's terrorists want a lot of people watching and a lot of people dead."22 (Emphasis added.)

Al Qaeda has been deadly clear about its ambitions. In 1998, Osama bin Laden declared that he considered obtaining weapons of mass destruction "a religious duty."" In December 2001, he urged his supporters to trump the 9/11 attacks: "America is in retreat by the grace of God Almighty..but it needs further blows."2 A few months later, Al Qaeda announced its goal to "kill four million Americans."5 It eVen managed to gain religious sanction from a radical Saudi cleric in 2003 to kill "ten million Americans" with a nuclear or biological weapon.26

We also now know that Al Qaeda has been seriously seeking a nuclear bomb. According to the Report of the 9/11 Commission, "Al Qaeda has tried to acquire or make nuclear weapons for at least ten years... and continues to pursue its strategic goal of obtaining a nuclear capability." It further reveals "bin Laden had reportedly been heard to speak of wanting a 'Hiroshima." The Commission provides evidence of Al Qaedas effort to recruit nuclear expertise-including evidence about the meeting between two Pakistani nuclear weapon scientists, bin Laden, and his deputy Ayman al-Zawahiri in Afghanistan to discuss nuclear weapons.2 These scientists were founding members of Ummah Tamer-e-Nau (UTN), a so-called charitable agency to support projects in Afghanistan. The foundation's board included a fellow nuclear scientist knowledgeable about weapons construction, two Pakistani Air Force generals, one Army general, and an industrialist who owned Pakistan's largest foundry.28

In his memoir, former CIA Director George Tenet offers his own conclusion that "the most senior leaders of Al Qaeda are still singularly focused on acquiring WMD" and that "the main threat is the nuclear one." In Tenet's view, Al Qaedas strategic goal is to obtain a nuclear capability. He concludes as follows: "I am convinced that this is where Osama bin Laden and his operatives desperately want to go."2 9

CLAIM 2: IT IS IMPOSSIBLE FOR TERRORISTS TO ACQUIRE FISSILE MATERIAL.

Assuming that terrorists have the intent-could they acquire the necessary materials for a Hiroshima-model bomb? Tenet reports that after 9/11, President Bush showed President Putin his briefing on UTN. In Tenet's account of the meeting, Bush "asked Putin point blank if Russia could account for all of its material." Putin responded that he could guarantee it was secure during his watch, underlying his inability to provide assurance about events under his predecessor, Boris Yeltsin.3o

When testifying to the Senate Intelligence Committee in February 2005, Commit- 36 tee Vice-Chairman John Rockefeller (D-WV) asked CIA Director Porter Goss whether the amount of nuclear material known to be missing from Russian nuclear facilities was sufficient to construct a nuclear weapon. Goss replied, "There is sufficient material unaccounted for that it would be possible for those with know-how to construct a weapon.. .I can't account for some of the material so I can't make the assurance about its whereabouts."

Mueller sidesteps these inconvenient facts to assert a contrary claim. According to his telling, over the last 10 years, there have been only 10 known thefts of highly enriched uranium (HEU), totaling less than 16 pounds, far less than required for an atomic explosion. He acknowledges, however, that "There may have been additional thefts that went undiscovered."32

Yet, as Matthew Bunn testified to the Senate in April 2008, "Theft of HEU and plutonium is not a hypothetical worry, it is an ongoing reality." He notes that "nearly all of the stolen HEU and plutonium that has been seized over the years had never been missed before it was seized." The IAEA Illicit Nuclear Trafficking Database notes 1,266 incidents reported by 99 countries over the last 12 years, including 18 incidents involving HEU or plutonium trafficking. 130 research reactors around the world in 40 developing and transitional countries still hold the essential ingredient for nuclear weapons. As Bunn explains, "The world stockpiles of HEU and separated plutonium are enough to make roughly 200,000 nuclear weapons; a tiny fraction of one percent of these stockpiles going missing could cause a global catastrophe."

Consider the story of Russian citizen Oleg Khinsagov. Arrested in February 2006 in Georgia, he was carrying 100 grams of 89-percent enriched HEU as a sample and attempting to find a buyer for what he claimed were many additional kilograms. Mueller asserts that "although there is a legitimate concern that some material, particularly in Russia, may be somewhat inadequately secured, it is under lock and key, and even sleepy, drunken guards, will react with hostility (and noise) to a raiding party.""

CLAIM 3: IT IS EXTREMELY DIFFICULT TO CONSTRUCT A NUCLEAR DEVICE THAT WORKS.

Rolf Mowatt-Larssen, former director of the Department of Energy's Office of Intelligence and Counterintelligence, testified that, "The 21s' century will be defined first by the desire and then by the ability of non-state actors to procure or develop crude nuclear weapons."6 In contrast, Mueller contends that, "Making a bomb is an extraordinarily difficult task... the odds, indeed, are stacked against the terrorists, perhaps massively so." 37

Mueller argues that his conclusion follows from an analysis of 20 steps an atomic terrorist would have to accomplish in what he judges to be the most likely nuclear terrorism scenario. On the basis of this list, he claims that there is "worse than one in a 37 million" chance of success. 38

His approach, however, misunderstands probabilistic risk assessment. For example, some of the steps on the list would have to be completed before an attempt to acquire material could begin (therefore, the success rate for any of those steps during the path would, by definition, be 100 percent). Other steps are unnecessary, such as having a technically sophisticated team pre-deployed in the target country. Although he assumes that stolen materials will be missed, in none of the 18 documented cases mentioned earlier had the seized material been reported missing."

At U.S. weapons labs and among the U.S. intelligence community, experts who have examined this issue largely agree. John Foster, a leading American bomb maker and former director of the Lawrence Livermore National Laboratories, wrote a quarter century ago, "If the essential nuclear materials are at hand, it is possible to make an atomic bomb using information that is available in the open literature." 4 Similarly, Theodore Taylor, the nuclear physicist who designed America's smallest and largest atomic bombs, has repeatedly stated that, given fissile material, building a bomb is "very easy. Double underline. Very Easy." 4

Inquiring into such claims, then-Senator Joe Biden (D-DE) asked the major nuclear weapons laboratories whether they could make such a device if they had nuclear materials. All three laboratories answered affirmatively. The laboratories built a gun-type device using only components that were commercially available and without breaking a single U.S. law.

The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, known as the Silberman-Robb Commission, reported in 2005 that the intelligence community believed Al Qaeda "probably had access to nuclear expertise and facilities and that there was a real possibility of the group developing a crude nuclear device." It went on to say that "fabrication of at least a 'crude' nuclear device was within Al Qaedas capabilities, if it could obtain fissile material."43

Skeptics argue that terrorists cannot replicate the effort of a multi-billion dollar nuclear program of a state. This claim does not distinguish between the difficulty of producing nuclear materials for a bomb (the most difficult threshold) and the difficulty of making a bomb once the material has been acquired. The latter is much easier. In the Iraq case, for example, the CIA noted that if Saddam Hussein had stolen or purchased nuclear materials from abroad, this would have cut the time Iraq needed to make a bomb from years to months.1 Moreover, terrorists do not require a state-of-the art weapon and delivery system, since for blowing up a single city a crude nuclear device would suffice.

The grim reality of globalization's dark underbelly is that non-state actors are 38 increasingly capable of enacting the kind of lethal destruction heretofore the sole reserve of states.

CLAIM 4: IT IS TOO DIFFICULT TO DELIVER A NUCLEAR DEVICE TO THE UNITED STATES.

In the spring of 1946, J. Robert Oppenheimer was asked whether units of the atom bomb could be smuggled into New York and then detonated. He answered, "Of course it could be done, and people could destroy New York." As for how such a weapon smuggled in a crate or a suitcase might be detected, Oppenheimer opined, "with a screwdriver." He went on to explain that because the HEU in a nuclear weapon emits so few radioactive signals, a bomb disguised with readily available shielding would not be detected when inspectors opened the crates and examined the cargo.41

The nuclear weapon that terrorists would use in the first attack on the United States is far more likely to arrive in a cargo container than on the tip of a missile. In his appearance before a Senate subcommittee in March 2001, six months before 9/11, National Intelligence Officer Robert Walpole testified that "non-missile delivery means are less costly, easier to acquire, and more reliable and accurate."' 6

Citing the 1999-2003 U.S. Congressional Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (the Gilmore Commission), Mueller states that transporting an improvised nuclear device would require overcoming "Herculean challenges.""

He does not explain, however, why bringing a crude nuclear weapon into an American city would be materially different than the challenge faced by drug smugglers or human traffickers. According to the Government Accountability Organization, an average of 275 metric tons of cocaine have arrived in Mexico each year for transshipment to the United States since 2000. Reported seizures averaged about 36 tons a year, a 13 percent success rate for the intelligence and law enforcement community. Three million illegal immigrants enter the country each year, and only one in three gets caught."

### Solvency

#### President believes he is constrained by statute

Saikrishna Prakash 12**,** professor of law at the University of Virginia and Michael Ramsey, professor of law at San Diego, “The Goldilocks Executive” Feb, SSRN

We accept that the President’s lawyers search for legal arguments to justify presidential action, that they find the President’s policy preferences legal more often than they do not, and that the President sometimes disregards their conclusions. But the close attention the Executive pays to legal constraints suggests that the President (who, after all, is in a good position to know) believes himself constrained by law. Perhaps Posner and Vermeule believe that the President is mistaken. But we think, to the contrary, it represents the President’s recognition of the various constraints we have listed, and his appreciation that attempting to operate outside the bounds of law would trigger censure from Congress, courts, and the public.

## Politics

### Impact

#### OMG The last line of their card says not key to the economy

Reinhart et al 10-1-13 [Vincent Reinhart, chief US economist, Morgan Stanley, Harm Bandholz, chief US economist, UniCredit, Aroop Chatterjee, FX strategist, Barclays, Vincent Chaigneau, rates strategist, Société Générale, Daniel Tenengauzer, US economist, Standard Chartered, Allan von Mehren, chief analyst at Danske, Trevor Greetham, director of asset allocation, Fidelity, “US shutdown reaction: ‘Odds favour a short event’,” <http://www.ft.com/cms/s/0/5bda1eb2-2a67-11e3-ade3-00144feab7de.html#axzz2gYttdnTn>]

The US government began shutting down a range of services on Tuesday after the Republican-controlled House of Representatives and the Democratic Senate failed to agree a short-term budget extension. The lack of an agreement by US politicians will lead to about 800,000 federal employees being placed on unpaid leave, a process known as furloughing. The following is a round-up of strategist and economist reaction:¶ Vincent Reinhart, chief US economist, Morgan Stanley:¶ The heat will build on politicians from constituents who were furloughed, inconvenienced, or fearful of market consequences. That is why we believe the odds favour a short event – over in one week.¶ Harm Bandholz, chief US economist, UniCredit:¶ I think it is only a matter of days, maybe hours, until the majority of Republicans will eventually free themselves from the pressure of the Tea Party minority and vote along with Congressional Democrats to reopen the government. But don’t forget, the government shutdown is merely the prelude to a much bigger issue, namely the forthcoming debt limit fight.¶ Aroop Chatterjee, FX strategist, Barclays:¶ In and of itself, the government shutdown appears to be a limited market event. The indirect effect, however, is on the other main risk scenario for markets – the deal on the debt ceiling. For example, a government shutdown could lead to a sharp increase in the public disapproval of Congress’s handling of fiscal matters and allow for a smoother agreement on the debt ceiling issue. Or on the flip side, it could embolden both sides to become more entrenched in their positions.¶ Vincent Chaigneau, rates strategist, Société Générale:¶ Keep calm and carry on. So it seems that is the message from the markets just now. The US government is going into partial shutdown for the first time in 17 years. This will hurt the economy, though not much if it’s short. Negotiations may keep us on tenterhooks for a couple more weeks, as we approach the debt ceiling. But there has been no sign of financial stress overnight.¶ Daniel Tenengauzer, US economist, Standard Chartered:¶ A shutdown lasting a few days would shave only a few decimal points off fourth-quarter economic growth. The hit to growth would come mainly from the impact of the furloughs on consumption – a similar event to the summer and the sequester-related furloughs of federal employees – and a potential hit to business confidence. The main risk to this expectation is that the shutdown continues for longer, potentially until or beyond the October 17 debt ceiling deadline.¶ Allan von Mehren, chief analyst at Danske:¶ The next FOMC [the monetary policy-setting Federal Open Market Committee] meeting is on 29-30 October. It is now more unlikely that tapering will start at this meeting as the Fed will probably wait to see the consequences of the increased uncertainty and effects of the shutdown. This strengthens our call that Fed tapering won’t start until December. If the shutdown drags out and has more negative effects on the economy the risk is tapering could start even later.¶ Given the increased uncertainty it also raises the odds of a further correction in stock markets. The reaction so far has been fairly muted. But given that markets have been technically overbought we think it’s likely we will see further declines in coming weeks. This should also add to downside pressure on bond yields. In the short term the risk is also that the dollar could weaken further.¶ Trevor Greetham, director of asset allocation, Fidelity:¶ We do not expect the fiscal stand-off in Washington to have a lasting impact and stock market weakness presents a buying opportunity.¶ The dispute has the power to depress economic activity temporarily and it will play havoc with the economic release calendar. But the US is four years into a steady, self-sustaining recovery and the Federal Reserve stands ready to offset any marginal fiscal tightening that may come out of the negotiations.

#### Their 1nc evidence says that Obama isn’t pushing even if PC is key

CNN 10/1/13 (Interview with Rick Lazio, Former US Congressman, Transcript: Anderson Cooper 360 Degrees, "Government Shutdown; Views of Obamacare Shaped by Misinformation; Is Losing Good for Kids?"

LAZIO: Getting back to the earlier point about entitlements and out- year spending, here's -- Democrats will criticize Republicans on obsessing on Obamacare. Republicans will say why doesn't the president lead on the most pressing fiscal issue that faces the country over the next 20 or 30 years?  You have got an explosion of seniors, 10,000 seniors retiring every single day in America. The program Social Security was created, signed by FDR into law, average life expectancy was 64 years old, eligibility 65, pretty good deal. But now...  BLOW: But, Rick, you're pretending that they never tried to do that.   Last time we got close to the debt ceiling, they got very close to a global deal, and it fell apart at the last minute. It's not as if the president has never gone to Boehner and tried to figure out how to do this.   LAZIO: But the president has to provide cover for moderate Democrats who want to get a deal done. And that's what he's failed to do. He's got to engage.   He's got to lead. And he's got to address some of these big picture issues. That's when you get a win-win out of this thing. If you could get both sides to come together and say we're going to really try and solve at least part of this entitlement picture, we will create some momentum, some trust, and that's a way forward.   (CROSSTALK)  BROWN: ... what exactly Obama right now is supposed to really do? When we talk about him engaging and him doing -- what actually is he supposed to do? Who's he supposed to call? How does it work at this moment in this particular situation?   LAZIO: I think you start to go and you speak to individual senators. He's done this with Bob Corker and other people where he's tried to court them and bring them in.  I think you have got to have some agenda, you have got to be somewhat flexible. You have got to say, OK, what do you think is doable? This is an area where obviously I have got limited flexibility, but let's get something significant done and I will help provide some air cover.

#### No default impact – it’s political hype

**Boccia, 9/18/13 –** fellow in federal budgetary affairs at the Heritage Foundation(Romina, “Debt Limit: Options and the Way Forward” <http://www.heritage.org/research/reports/2013/09/debt-limit-options-and-the-way-forward>)

If Congress does not raise the debt limit by mid-October, the Treasury would not necessarily default on debt obligations. Even while cash-strapped, the Treasury can reasonably be expected to prioritize principal and interest payments on the national debt, protecting the full faith and credit of the United States above all other spending. It is almost impossible to conceive that the Treasury and the President would choose to default on debt obligations because doing so would have damaging economic consequences.

Nevertheless, the Treasury and the President have repeatedly invoked the threat of default to pressure Congress into raising the debt ceiling without substantial spending cuts and policy reforms. In July, Secretary Lew said on ABC’s This Week: “Congress can’t let us default. Congress has to do its work.”[6] On August 26, he wrote to Congress: “Congress should act as soon as possible to protect America’s good credit by extending normal borrowing authority well before any risk of default becomes imminent.”[7] President Obama also mentioned default at the G-20 summit: “That includes making sure we don’t risk a U.S. default over paying bills we’ve already racked up.”[8 ]

#### Err aff---their authors exaggerate

Tom Raum 11, AP, “Record $14 trillion-plus debt weighs on Congress”, Jan 15, <http://www.mercurynews.com/news/ci_17108333?source=rss&nclick_check=1>

Democrats have use doomsday rhetoric about a looming government shutdown and comparing the U.S. plight to financial crises in Greece and Portugal. It's all a bit of a stretch. "We can't do as the Gingrich crowd did a few years ago, close the government," said Senate Majority Leader Harry Reid (D-Nev.), referring to government shutdowns in 1995 when Georgia Republican Newt Gingrich was House speaker. But those shutdowns had nothing to do with the debt limit. They were caused by failure of Congress to appropriate funds to keep federal agencies running. And there are many temporary ways around the debt limit. Hitting it does not automatically mean a default on existing debt. It only stops the government from new borrowing, forcing it to rely on other ways to finance its activities. In a 1995 debt-limit crisis, Treasury Secretary Robert Rubin borrowed $60 billion from federal pension funds to keep the government going. It wasn't popular, but it helped get the job done. A decade earlier, James Baker, President Ronald Reagan's treasury secretary, delayed payments to the Civil Service and Social Security trust funds and used other bookkeeping tricks to keep money in the federal till. Baker and Rubin "found money in pockets no one knew existed before," said former congressional budget analyst Stanley Collender. Collender, author of "Guide to the Federal Budget," cites a slew of other things the government can do to delay a crisis. They include leasing out government-owned properties, "the federal equivalent of renting out a room in your home," or slowing down payments to government contractors. Now partner-director of Qorvis Communications, a Washington consulting firm, Collender said such stopgap measures buy the White House time to resist GOP pressure for concessions. "My guess is they can go months after the debt ceiling is not raised and still be able to come up with the cash they need. But at some point, it will catch up," and raising the debt limit will become an imperative, he suggested.

#### WSJ is about a protracted fight which fill clearly exist and should have already spooked markets

#### Multiple factors check the impact

**FXStreet.com, 9/25**/13 – an investing website (“4 Reasons Why You Shouldn't Worry Over This Year's Debt Ceiling Deadline” <http://www.fxstreet.com/analysis/piponomics/2013/09/25/>)

The U.S. debt ceiling deadline may be looming like dark clouds over the market horizon, but I've found a few reasons why this issue might not be such a big deal after all.

1. In 2011 the market was also dealing with:

Back when the debt ceiling issue popped up in 2011, risk appetite was really low since markets were also troubled by Greece's potential default, Portugal's and Japan's debt downgrades, the prospect of another global recession, plus ongoing riots in the U.K. Clearly, the global economy had more problems than a math book!

This time around though, market sentiment is much different as major economies like the euro zone, the U.K., and even Japan and China are all looking at optimistic economic growth prospects. With that, the debt ceiling issue might simply make a tiny dent in risk appetite.

2. The Fed is still stimulating the markets.

In the FOMC statement last week, the Fed decided to keep supporting the U.S. economy by refusing to taper its monthly asset purchases. Aside from helping sustain the progress in lending and spending, this could eventually stimulate the global economy as it would also ensure healthy demand and robust trade activity.

3. The Dollar Index is hinting at a repeat of history.

If you look at the USDX chart you'll see that the dollar fell 200 pips from mid-July until early August when the debt ceiling deadline was due. It then encountered support at the 74.00 psychological area and even reached the 80.00 area by October.

This time around the USDX is consolidating at the 81.00 support on the daily chart. If history is to repeat itself, then the 200-pip fall from early September has already run its course. Does this mean that we're about to see a dollar rally soon?

4. We've seen this before.

In 2011 the U.S. government alleviated the markets' fears by raising the debt ceiling and promising to reduce future increases in government spending. Then, in 2013, they got over the fiscal cliff hurdle by passing a last-minute bill that includes a $600 billion tax revenue in a span of ten years. And then there's the budget sequestration issue, which has gone relatively smoothly since early this year despite the onslaught of criticism.

#### No markets impact

Peter Lefkin 13, Senior Vice President of Government and External Affairs for Allianz of North America, “Round 2 of the Debt-Ceiling Debate,” Allianz Global, 5/21, <http://us.allianzgi.com/Commentary/MarketInsights/Pages/5QuestionswithPeterLefkin.aspx>

Expect more brinkmanship from Democrats and Republicans. Both parties will go through the rhetoric and the charade of partisan politics. After several years of political uncertainty, markets generally discount dysfunction in Washington. But the political leverage has shifted: The fiscal cliff was a strategic loss for Republicans but it set the stage for them to stand pat on the sequester. The cards are now in their favor. And they’re going to play them. Earlier this year, everyone expected Republicans to demand sweeping changes to entitlement spending as a condition of agreeing to raise the debt limit. With the budget numbers improving, and the public already lulled into complacency about the deficit by low interest rates, many Republicans realize that they may have to shift gears. They could tie the debt-ceiling increase to something else. The Republican wish list includes comprehensive tax reform, entitlement reform and construction of the Keystone oil pipeline.

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#### Debt ceiling downgrade won’t hurt the economy---empirics

Brian Dooley 12, "Will US debt rating be downgraded again?", 12/29, [www.royalgazette.com/article/20121229/BUSINESS08/712299981](http://www.royalgazette.com/article/20121229/BUSINESS08/712299981)

So what happens when the world’s largest bond sector faces a potential downgrade due to political instability, runaway budget deficits and an anaemic economic recovery?¶ The answer might be found in what was witnessed last year at the time of the S&P downgrade, which also involved longer term US securities being placed on “negative watch”. S&P said they believed “the fiscal consolidation plan that Congress and the Administration recently agreed fell short of what is necessary to stabilise the government’s medium term debt dynamics”. The downgrade was prompted by the debt ceiling debate which requires Congress to approve increases in America’s debt capacity at regular intervals.¶ S&P argued that the predictability and effectiveness of American policymaking had both declined to a level of concern and cited pessimism that Congress and the Administration could bridge the vast gulf between the two main political parties. In short, the agency took a “show me” attitude about America being able to hammer out an effective plan which put the country back on track.¶ Oddly enough, Treasury bond prices had actually been increasing in the midst of the debt ceiling debate in the summer of 2011 as investors grew sanguine about the prospects for a successful budget negotiation. Prices rose and yields fell right up until the day of the downgrade after which bonds sold off sharply. On that day, the benchmark ten-year US Treasury bond yield ticked up to from 2.47 percent to 2.58 percent and prices of bonds declined across the curve.¶ Immediately after the S&P downgrade, however, investors shrugged off the news and Treasury bonds resumed their rally into the end of the year. Perhaps bond buyers were encouraged that an agreement had finally been struck and that Moody’s and Fitch, the two other major credit rating agencies had not followed the S&P action. Massive bond buying the US Federal Reserve didn’t hurt either.

### Impact D

#### Best studies prove

Brandt and Ulfelder ‘11(\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network)

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown. Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability has not been subjected to a great deal of careful empirical analysis, and evidence from social science research to date does not unambiguously support it. Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have hardly been studied in recent years, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression. This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, ours is the first statistical study of this relationship to simultaneously address the possibility of nonlinearity and problems of endogeneity. As such, we believe this paper offers what is probably the most rigorous general evaluation of this argument to date. As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is neither as uniform nor as strong as the conventional wisdom(s) presume(s). We think these findings also help explain why the global recession of 2008–2010 has failed thus far to produce the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social unrest associated with the crisis.

## aumf

### aumf

#### Let’s talk about their cards—

#### Brooks says Obama had to stretch the AUMF until Congress stepped in with stuff like the MCA to clarify his authority

#### Crook is just a general uniqueness claim that the AUMF lets us do a lot of shit—it’s not going anywhere

**Crook, 12** – George Washington University Law School law professor

[John R. Crook, Vice-President of the American Society of International Law, former General Counsel of the Multinational Force and Observers- the peacekeeping force in the Sinai, “The War Powers Resolution—A Dim and Fading Legacy,” Case Western Reserve Journal of International Law·Vol.45·2012, http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.pdf, accessed 9-23-13, Bagwell/mss]

Thus, in the forty years since the War Powers Resolution was adopted, it has rarely had significant effect on national security policy and the use of U.S. forces. Congress has rarely turned its mind to the Resolution. When it has, the debate often has veered to issues of technical compliance with the Resolution, not to the wisdom of particular policies involving actual or potential uses of force. Indeed, it often has worked out that whichever political party does not hold the presidency has invoked the Resolution as an avenue to attack actions taken by a president of the other party. In the meantime, successive administrations have adopted the practice of submitting periodic reports “consistent with the War Powers Resolution” briefly describing deployments of U.S. forces “equipped for combat” at many locations throughout the world. The unclassified versions of these reports are a useful contribution to transparency. The classified versions may provide additional information of value to lawmakers. However, the reports seem a modest legacy. III. What of the Future? Yogi Berra is credited with observing that it is difficult to predict the future because you don’t know what’s going to happen. On this, as with many things, Yogi was correct. We do not know what may occur in Syria, the South China Sea, Iran, or any of the world’s other potential flashpoints for military confrontations. Nevertheless, I believe it is reasonably safe to predict that the War Powers Resolution will have less relevance in coming years than it has in the past. Several factors point this way. A. The Continued Role of the AUMF The first factor is Congress’s approval in 2001 of the AUMF, which remains in force and seems likely to remain with us for the foreseeable future. It will be a bold president or congressman who announces that the “War on Terror” has been won and the AUMF should be repealed. The act’s broad terms played a central role in the U.S. Supreme Court’s affirmation of the president’s power to detain enemy combatants,52 and have provided statutory cover—for both political branches—with respect to a wide range of deployments of U.S. military forces in many places as part of the ongoing, violent, and often shadowy U.S. efforts against terrorists. The AUMF contains no limitations as to the forces that may be employed, potential targets, or geographical extent, and describes the enemy in expansive terms.53 A commentator recently observed that “[t]he president who won the Nobel Peace Prize less than nine months after his inauguration has turned out to be one of the most militarily aggressive American leaders in decades.” 54 Whether one accepts this characterization or not, it is clear that U.S. personnel and assets are being widely and lethally applied in many parts of the globe for the purposes indicated in the AUMF. **The most recent consolidated War Powers report** sent by President Obama to congressional leaders on June 20, 2012 **describes** a wide range of military deployments and activities, including public confirmation of previously unconfirmed U.S. military operations against groups affiliated with al-Qaeda in Somalia and Yemen.55 **Most of the listed activities** seem to have been undertaken under the AUMF umbrella. The unclassified report states: Since October 7, 2001, the United States has conducted combat operations in Afghanistan against al-Qa’ida terrorists, their Taliban supporters, and associated forces. In support of these and other overseas operations, the United States has deployed combat equipped forces to a number of locations in the U.S. Central, Pacific, European, Southern, and Africa Command areas of operation. Previously such operations and deployments have been reported, consistent with Public Law 107-40 [the AUMF] and the War Powers Resolution, and operations and deployments remain ongoing. 56 The report goes on to briefly describe military activities involving combat-equipped U.S. forces in Afghanistan, Central African Republic, Cuba (Guantánamo Bay), Democratic Republic of the Congo, Egypt, Iraq, Kosovo, Somalia, South Sudan, Uganda, and Yemen. The report also refers to additional activities described in its classified annex.