# 1NC

### 1st Off

#### [A.] Interpretation: Affirmatives cannot restrict the funding of operations

#### 2. Statutes must be passed by both houses of legislature and signed by the president – only then does it become ruling legislation

West’s Encyclopedia of American Law ed. 2, “statute,” 2008. http://legal-dictionary.thefreedictionary.com/statute

An act of a legislature that declares, proscribes, or commands something; a specific law, expressed in writing.¶ A statute is a written law passed by a legislature on the state or federal level. Statutes set forth general propositions of law that courts apply to specific situations. A statute may forbid a certain act, direct a certain act, make a declaration, or set forth governmental mechanisms to aid society.¶ A statute begins as a bill proposed or sponsored by a legislator. If the bill survives the legislative committee process and is approved by both houses of the legislature, the bill becomes law when it is signed by the executive officer (the president on the federal level or the governor on the state level). When a bill becomes law, the various provisions in the bill are called statutes. The term statute signifies the elevation of a bill from legislative proposal to law. State and federal statutes are compiled in statutory codes that group the statutes by subject. These codes are published in book form and are available at law libraries.

#### 2. They are concurrent resolution – power of the purse isn’t topical

J. Gregory Sidak, Covington & Burling, Washington D.C. Ab 1977, A.M., J.D., “The President’s Power of the Purse,” *Duke Law Journal* Vol. 1989

236. Authority of Congressional Committees to Disapprove Action of Executive Branch, 41 Op.¶ Att'y Gen. 230 (1955); see also Wilson Veto Message, supra note 143, at 8845 ("I do not concede the¶ right, and certainly not the wisdom, of the Congress endowing a committee of either House or ajoint¶ committee of both Houses with power to prescribe 'regulations' under which executive departments¶ may operate."). In addition, President Franklin Roosevelt wrote a confidential memorandum to¶ Attorney General Robert Jackson in 1941 stating that a legislative veto provision in the Lend-Lease¶ Act, which Roosevelt had signed into law, was "clearly unconstitutional." Memorandum for the¶ Attorney General from President Franklin D. Roosevelt (Apr. 7, 1941), reprinted in Jackson, A¶ Presidential Legal Opinion, 66 HARV. L. REV. 1353, 1357 (1953).¶

Louis Fisher candidly suggests how, notwithstanding Chadha, Congress could avoid presentment and replicate through the appropriations process the effect of the legislative veto:¶ With regard to war powers in general, Congress may.pass a concurrent resolution (not¶ subject to the President's veto) stating that it shall not be in order in either House to¶ consider any bill, joint resolution or amendment that provides funding to carry out any¶ military actions inconsistent with an enabling statute, such as the War Powers Resolution.¶ Under the ruling ofINS v. Chadha, concurrent resolutions may not direct the President or¶ the executive branch, but they can control the internal procedures of Congress.¶ Fisher, supra note 6, at 763.

#### [B.] Violation: The affirmative’s use of appropriations restrictions does not occur through statutorily created ruling legislation – even if they use “statitorially” it just proves the plan isn’t a real thing – vote neg on presumption.

#### [C.] Prefer our interpretation:

#### 1. Limits and Ground: Expanding statutory restriction beyond joint resolutions and presidential signing by law expands affirmative mechanism ground 3 fold – simple resolutions, joint resolutions, and concurrent resolutions – on a topic that already has two agents and mechanisms built into the wording of the resolution. Simple and concurrent restrictions should be negative counterplan ground to even the playing field.

#### 2. Indpentdently – they’re extra topical – can’t fiat enforcement and especially of “watchdog orgs” because it’s textually beyond the scope of the federal government action and makes it unpredictable to be neg

#### [D.] Topicality is a voting issue – rule of game, fairness, and education

### 2nd Off

#### The Executive Branch of the United States federal government should end drone based targeted killing strikes carried out by the Central Intelligence Agency. The President of the United States should publicly declare this policy and adhere to the mandate.

#### The Central Intelligence Agency should supply all necessary information to the Government Accountability Office.

#### De Facto and De Jure self-binding create accountability from the courts and risk political alienation for going back on promises

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 138-139//wyo-sc]

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is "yes, at least to the same extent that a legislature can." Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

### 3rd Off

#### Executive war power primacy now—the plan flips that

Posner 13

[Eric Posner, 9/3/13, Obama Is Only Making His War Powers Mightier, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html]

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President **Obama has reaffirmed the primacy of the executive** in matters of war and peace. **The war powers of the presidency remain as mighty as ever**.

It would have been different if the president had announced that **only Congress can authorize** the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. **That would have been** worthy of notice, **a reversal of the ascendance of executive power over Congress**. **But the president said no such thing**. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”

Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.

The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.)

People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

#### Congressional restraints spill over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or **limit a war** in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it **would strip the President of his Commander in Chief authority** to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

#### That goes nuclear

Li ‘9

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

1. The Emergence of Non-State Actors]

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

### 4th Off

#### Congressional moves to reclaim war power authority triggers the war power and politics disad

William Howell, Sydney Stein professor in American politics at the University of Chicago, 9/3/13, All Syria Policy Is Local, www.foreignpolicy.com/articles/2013/09/03/all\_syria\_policy\_is\_local\_obama\_congress?page=full

From a political standpoint, seeking congressional approval for a limited military strike against the Syrian regime, as President Barack Obama on Saturday announced he would do, made lots of sense. And let's be clear, this call has everything to do with political considerations, and close to nothing to do with a newfound commitment to constitutional fidelity. The first reason is eminently local. Obama has proved perfectly willing to exercise military force without an express authorization, as he did in Libya -just as he has expanded and drawn down military forces in Afghanistan, withdrawn from Iraq, significantly expanded the use of drone strikes, and waged a largely clandestine war on terrorism with little congressional involvement. The totality of Obama's record, which future presidents may selectively cite as precedent, hardly aligns with a plain reading of the war powers described in the first two articles of the constitution. Obama isn't new in this regard. Not since World War II has Congress declared a formal war. And since at least the Korean War, which President Harry Truman conveniently called a "police action," commanders-in-chief have waged all sorts of wars -small and large -without Congress's prior approval. Contemporary debates about Congress's constitutional obligations on matters involving war have lost a good deal of their luster. Constitutional law professors continue to rail against the gross imbalances of power that characterize our politics, and members of whichever party happens to be in opposition can be counted on to decry the abuses of war powers propagated by the president. But these criticisms -no matter their interpretative validity -rarely gain serious political traction. Too often they appear as arguments of convenience, duly cited in the lead-up to war, but serving primarily as footnotes rather than banner headlines in the larger case against military action. Obama's recent decision to seek congressional approval is not going to upend a half-century of practice that has shifted the grounds of military decision-making decisively in the president's favor, any more than it is going to imbue the ample war powers outlined in Article I with newfound relevance and meaning. For that to happen, Congress itself must claim for itself its constitutional powers regarding war. Obama did not seek Congress's approval because on that Friday stroll on the White House lawn he suddenly remembered his Con Law teaching notes from his University of Chicago days. He did so for political reasons. Or more exactly, he did so to force members of Congress to go on the record today in order to mute their criticisms tomorrow. And let's be clear, Congress -for all its dysfunction and gridlock -still has the capacity to kick up a good dust storm over the human and financial costs of military operations. Constitutional musings from Capitol Hill -of the sort a handful of Democrats and Republicans engaged in this past week -rarely back the president into a political corner. The mere prospect of members of Congress casting a bright light on the human tolls of war, however, will catch any president's attention. Through hearings, public speeches, investigations, and floor debates, members of Congress can fix the media's attention -and with it, the public's -on the costs of war, which can have political repercussions both at home and abroad. Think, then, about the stated reasons for some kind of military action in Syria. No one is under the illusion that a short, targeted strike is going to overturn the Assad regime and promptly restore some semblance of peace in the region. In the short term, the strike might actually exacerbate and prolong the conflict, making the eventual outcome even more uncertain. And even the best-planned, most-considered military action won't go exactly according to plan. Mishaps can occur, innocent lives may be lost, terrorists may be emboldened, and anti-American protests in the region will likely flare even hotter than they currently are. The core argument for a military strike, however, centers on the importance of strengthening international norms and laws on chemical and biological weapons, with the hope of deterring their future deployment. The Assad regime must be punished for having used chemical weapons, the argument goes, lest the next autocrat in power considering a similar course of action think he can do so with impunity. But herein lies the quandary. The most significant reasons for military action are abstract, largely hidden, and temporally distant. The potential downsides, though, are tangible, visible, and immediate. And in a domestic political world driven by visual imagery and the shortest of time horizons, it is reckless to pursue this sort of military action without some kind of political cover. Were Obama to proceed without congressional authorization, he would invite House Republicans to make all sorts of hay about his misguided, reckless foreign policy. But by putting the issue before Congress, these same Republicans either must explain why the use of chemical weapons against one's people does not warrant some kind of military intervention; or they must concede that some form of exacting punishment is needed. Both options present many of the same risks for members of Congress as they do for the president. But crucially, if they come around to supporting some form of military action -and they just might -members of Congress will have an awfully difficult time criticizing the president for the fallout. Will the decision on Saturday hamstring the president in the final few years of his term? I doubt it. Having gone to Congress on this crisis, must he do so on every future one? No. Consistency is hardly the hallmark of modern presidents in any policy domain, and certainly not military affairs. Sometimes presidents seek Congress's approval for military action, other times they request support for a military action that is already up and running, and occasionally they reject the need for any congressional consent at all. And for good or ill, it is virtually impossible to discern any clear principle that justifies their choices. The particulars of every specific crisis -its urgency, perceived threat to national interests, connection to related foreign policy developments, and what not -can be expected to furnish the president with ample justification for pursuing whichever route he would like. Like jurists who find in the facts of a particular dispute all the reasons they need for ignoring inconvenient prior case law, presidents can characterize contemporary military challenges in ways that render past ones largely irrelevant. Partisans and political commentators will point out the inconsistencies, but their objections are likely to be drowned out in rush to war. Obama's decision does not usher in a new era of presidential power, nor does it permanently remake the way we as a nation go to war. It reflects a temporary political calculation -and in my view, the right one -of a president in a particularly tough spot. Faced with a larger war he doesn't want, an immediate crisis with few good options, and yet a moral responsibility to act, he is justifiably expanding the circle of decision-makers. But don't count on it to remain open for especially long.

#### Iran deal now—signal of presidential resolve is key—the impact is nuclear war

Rothkopf 11/12/13

David, Visiting Scholar, Carnegie Endowment, “This Deal Won’t Seal Itself,” http://carnegieendowment.org/2013/11/12/this-deal-won-t-seal-itself/gtpi

Rest assured however, there are several reasons this apparent screwup will not result in a major investigation as to what "went wrong." The most important of these reasons is that Secretary Kerry and his colleagues in the Obama White House were on some level **relieved** to have the clock stopped on the negotiations. One senior administration official acknowledged that late last week as it became clear that growing political opposition to the pending deal both domestically and from allies overseas demanded attention unless it produced a backlash that could have scuttled the agreement. In this official's words, "we were saved by the bell" as the parties agreed to delay further talks until Nov. 20. There are, of course, other reasons why this apparent breakdown between the United States and the ally with whom we have been working very closely on the P5+1 negotiating process for years, will not be overly scrutinized. One is that while in Abu Dhabi yesterday, Secretary Kerry asserted that it was not the French who undid the talks but the Iranians. He explained there was general agreement on terms but Iranian Foreign Minister Mohammad Javad Zarif and his team "couldn't take it at that particular moment, they weren't able to accept that particular thing." Zarif for his part took to Twitter to suggest that "half of the U.S. draft" was "gutted" on Thursday night and not by Iran. He accused Kerry of spinning the breakdown and warned such diplomatic maneuvering could "further erode confidence." In addition to the U.S.-Iranian "he said-he said" debate, there is also the whispered belief among some -- in both the Middle East and in Washington, acknowledged by at least one person with whom I spoke inside the administration -- that the last minute changes in language and the subsequent "rift" between the United States and France was too politically convenient. Both Paris and Washington were starting to feel the heat from allies like Saudi Arabia and Israel, and though France feared an economic squeeze on the big deals it has pending with the Saudis, the Americans could see organized opposition forming on Capitol Hill. The concern was that this opposition would not only result **in the rejection of any deal reached with Iran but** may even **compromise** a new push for **tougher sanctions** even as the administration was negotiating dialing them back. Such a rejection to the initiative would be absolutely **devastating to the president,** creating echoes of his failed effort to get Congressional support for his proposed very limited intervention in Syria to degrade their chemical weapons stores. In other words, it doesn't really matter who threw the monkey wrench. There was work to be done on this deal both in terms of strengthening its terms but also in garnering the necessary support before signatures were actually set to paper. Even given the Geneva agreement's goal of producing a temporary freeze in Iran's nuclear program while a more permanent deal could be struck, legitimate questions linger over whether the near-term deal could achieve that goal if it did not effectively freeze enrichment efforts and shut down work at an Iranian reactor capable of producing plutonium. Further, the Obama team still **has a great deal of work to do** -- some of which is being done this week by Secretary Kerry and Under Secretary of State Wendy Sherman as they meet with allies in the Middle East -- building support for the deal. This will be tough to do on Capitol Hill and in Saudi Arabia given that at, the moment, both environments seethe with distrust for President Obama. No, even the Iranians should be happy with the delay... and not just for the cynical reason that any delay buys them the time they want and need to advance their nuclear weapons program. They also very much want sanctions relief, and to get it, they **need** the deal to win support from the U.S. Congress. Given the efforts of multiple forces to block the deal, this will mean the Obama administration and the president himself will **have to** systematically **engage opponents** in a way they seldom do on anything. Winning support on Capitol Hill and with the American people for such a deal is potentially the president's next big domestic political test. Failure on this after the failure to win support for his Syria efforts, the blowback from the NSA scandal, and his unsteady and confusing Egypt policies would be a big setback for the president during his second term, a period in which chief executives often turn to foreign policy to shape their legacies. Of central concern to those domestic and international skeptics and opponents of any kind of rapprochement with Iran will be how the administration will ensure any deal is being adhered to and whether they have the resolve to punish Iran for any missteps or misrepresentations. If the President and his team can make a compelling case that they do, and then such a deal is certainly a risk worth taking. However, if the deal is seen as a dodge, as a way to avoid testing the president's resolve to do whatever is necessary to stop Iran from developing nuclear weapons, or even as a way to simply punt the hard questions associated with Iranian nukes to the next Oval Office occupant, then few will or should support what would amount to simply papering over one of the Middle East's great problems. In short, the most critical component of this deal is not the words drafted by diplomats but what lies in the heart of the Iranians and the president of the United States. If Iran reverses past patterns and actually complies, the deal could be part of a game-changing **reduction of tension** that **all in the region should welcome**. But because that is a change without precedent and one that goes against the grain of decades' worth of Iranian behavior, as well as the character and commitment of the president of the United States, it is even more important to its success. If the Iranians believe President Obama is resolved to enforce it swiftly and decisively, it may work. If they think he will be reluctant to take tough enforcement measures, if they think he can be played -- either because he wants the legacy of an apparently successful deal or because he simply is loath to run the risk of costly, dangerous military action against Iran -- **then history suggests they will play him** (much as past U.S. leaders have been played in other such "deals" as was the case with North Korea). One more caveat however, has gotten too little attention during the recent debate about these negotiations. Even if an agreement is ultimately successfully structured, implemented, and enforced, solving the Iranian nuclear problem does not resolve the Iran problem for the entire region or for the United States and its allies. But it would be a great step forward. That is not to be minimized. No one should **want a nuclear arms race** **in the Middle East** or allow for such a volatile region (or the world) to be poised on the precipice of the catastrophe of nuclear war or nuclear terrorism. Though Iran has, to date, never been a nuclear power, it has caused plenty of problems nonetheless. It remains the world's leading state sponsor of terror. It seeks to be a regional hegemon with clients at work at its behest in Iraq, Syria, Lebanon, and Gaza. It can **cause havoc in global oil markets** **via** the use of conventional weapons or even just **sabre-rattling** that might jeopardize shipping routes. No proposed deal addresses these threats or those that may emerge elsewhere (as in Western Afghanistan, for example).

## Case

## Solvency

### 1NC

#### Prez will circumvent-

#### [1.] invokes state secrets to avoid oversight

**Posner and  Vermeule 2010**[Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 24//wyo-sc]

**Monitoring the executive requires expertise in the area being monitored.** In many cases, **Congress lacks the information necessary to monitor discretionary policy choices by the executive.** Although the committee system has the effect, among others, of generating legislative information and expertise,18 and although Congress has a large internal staff, there are domains in which no amount of legislative expertise suffices for effective oversight. **Prime among these are areas of foreign policy and national security**. Here **the** relative **lack of legislative expertise** **is only part of the problem**; what makes it worse is that **the legislature lacks the raw information that experts need to make assessments**. The problem would disappear if legislators could cheaply acquire information from the president, but they cannot. One obstacle is **a suite of legal doctrines** **protect**ing **executive secrecy** and creating deliberative privileges— doctrines that may or may not be justified from some higher-order systemic point of view as means for producing optimal deliberation within the executive branch. Although such privileges are waivable, the executive often fears to set a bad institutional precedent. **Another obstacle is** the standard executive claim **that Congress leaks like a sieve, so**that **sharing** **secret information** with legislators **will result in public disclosure**. **The problem becomes most acute when**, **as in the recent controversy over surveillance by the N**ational **S**ecurity **A**gency, **the executive claims that the** very scope or **rationale** of a program **cannot be discussed with Congress, because to do so would vitiate the very secrecy** **that makes the** **program** possible and **beneficial**. In any particular case the claim might be right or wrong; legislators have no real way to judge, and they know that the claim might be made either by a wellmotivated executive or by an ill-motivated executive, albeit for very different reasons.

#### [3.] Empirics on presidents ignoring WPR prove the trend

**Isaacs 2011**

[John Isaacs, 2011,  executive director of Council for a Livable World, War Powers Resolution consistently ignored,  <http://thehill.com/blogs/congress-blog/foreign-policy/172803-war-powers-resolution-consistently-ignored>,  uwyo//amp]

President Harry F. **Truman ignored Congress when** in 1950 **he sent troops to Korea** to stave off a North Korean advance into the South. Almost 1.8 million Americans fought in Korea, with some 33,600 American deaths. But **there never was a congressional authorization**, and Congress continued to appropriate funds to prosecute the war. **The War Powers Resolution also appeared to be a check against Nixon’s power,**a President recently overwhelmingly re-elected who was becoming more and more enmeshed in the Watergate scandal. Indeed, I played only a bit role, helping to convince some liberals such as Representatives Bella Abzug (D-NY) and Robert Drinan (D-Mass.) that Congress was not ceding additional power to the President by giving him or her 60 or 90 days to conduct war without approval of Congress. **Fast forward to today. Every President since 1973, includingBarack Obama, has decided to ignore the law as an unconstitutional assertion of power.**

#### [4.] Cancels testimony, Justice Department ignores oversight requests

**Victor ‘03**

[Kirk Victor, writer for government executive.com, 2003, Congress in eclipse as power shifts to executive branch, <http://www.govexec.com/management/2003/04/congress-in-eclipse-as-power-shifts-to-executive-branch/13800/>, uwyo//amp]

Senate Finance Committee Chairman Charles Grassley, R-Iowa, agreed in an interview that "**getting information from the Justice Department under Ashcroft is like pulling teeth**." But Grassley sees it as an institutional problem, and said it had also been difficult to get responses when Janet Reno led the department. Grassley said he has had no problem in asserting his oversight powers with the executive branch. As for his colleagues who worry about presidential usurpation of Congress's powers, Grassley added, "It doesn't matter to me what the president thinks, unless I want to take it into consideration. He didn't elect me-the people of Iowa elected me. I am a trustee of the people, not a messenger boy for the president." But **Leahy had a far more negative,** withering **take on the Bush administration's actions to avoid oversight. He and some other Senate Judiciary Committee members have sent the Justice Department 28 requests for oversight information**, dating back to July 2001. **The department has not responded to any of them. Ashcroft "basically ignores most of the requests**, but at least I give him credit for being bipartisan-**he ignores Republican requests, too**," Leahy said in the interview. "And this is the man who [when he was a senator] thought he should hold up judicial nominations and everything else when the attorney general didn't give us what we wanted." **Several members of the Senate Foreign Relations Committee also reacted angrily when the administration canceled**, at the last minute, **testimony by the top official in charge of reconstruction and humanitarian assistance in Iraq,** who was to appear at a March 11 hearing. **They also were surprised to learn from that day's newspapers that the administration was seeking bids from U.S. corporations on reconstruction contracts for Iraq.**

#### US has significantly decreased strikes and has a narrow and legal use of drones –

FoxNews.com, “Concerns raised about fewer US drone strikes amid continuing terror attacks,” 9/26/13

New statistics from the West Point Counterterroism Center show more than 60 terror attacks across the world since July 1 -- most recently, the attack at a Kenya mall last weekend in which more than 60 people were killed.¶ Meanwhile, the number of U.S. drone strikes in Pakistan and Yemen – the hotbed for Al Qaeda and other terror groups -- appears to have decreased significantly over roughly the same period.¶ The publication The Long War Journal reports a total of 22 strikes since May in those countries.¶ The apparent trend of fewer strikes amid perceptions of a weakened Al Qaeda and diminished terror threats is drawing concern from Rep. Mike Rogers, chairman of the House Permanent Select Committee on Intelligence.¶ “It's not diminishing,” the Michigan Republican told Fox News on Tuesday. “There have been counterterrorism changes made by the administration that have concerned us all, things that we've been working on for a period of months that we're trying to work through that are very, very concerning. This is no time to retreat.”¶ The White House has not commented on the apparent decrease in drone strikes but has referred reporters to President Obama’s May 23 speech at the National Defense University in which he discussed the county’s evolving efforts to combat the war on terror.¶ The president said the United States will continue to “dismantle [terror] networks that pose a direct danger to us” but can no longer define its efforts as a “boundless global war on terror.”¶ He said the fight is entering a “new phase” in which legal and necessary drone strikes will be more narrowly focused to avoid civilian casualties and backlash in Pakistan and neighboring countries.¶ “By narrowly targeting our action against those who want to kill us and not the people they hide among, we are choosing the course of action least likely to result in the loss of innocent life,” Obama said.¶ Bill Roggio, The Long War Journal’s managing editor, said on Wednesday that the speech shows the administration “has a very narrow view of what makes up Al Qaeda and believes that killing a handful of legacy leaders involved in 9/11 will cause the collapse of the group.”¶ The magazine reports the number of recent strikes in Pakistan as: one in May, one in June, three in July, one in August and two in September.¶ The numbers in Yemen are: two in May, two in June, two in July, eight in August and zero in September.¶ Roggio points out the sharp increase in August was at about the same time a terror threat led to the temporary closure of 22 U.S. embassies and consulates across the Middle East and North Africa.¶ “But they were reactive strikes,” he said.¶ Roggio also says the US. launched 117 drone strikes in Pakistan in 2010, compared to 21 so far this year, which translates into one about every three of four days to about one every 15 days in 2013.¶ Obama repeated the U.S.’s position Tuesday at United Nations General Assembly speech, saying the county has shifted away from “a perpetual war-footing.”¶ “We have limited the use of drones so they target only those who pose a continuing, imminent threat to the United States where capture is not feasible, and there is a near certainty of no civilian casualties,” the president said.

## Prolif

### 1NC – AT: Global War Impact

#### No reverse casual modeling internal link --- we can’t reverse the precedent that has already been set

**Boot 11**

(Max Boot, Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations in New York, leading military historian and foreign-policy analyst, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, October 9, 2011, http://www.commentarymagazine.com/2011/10/09/drone-arms-race/)

The New York Times engages in some scare-mongering today about a drone arms race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.¶ “The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”¶ This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.¶ **The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example.** In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.¶ Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?¶ While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities.We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

#### No impact --- drones are ineffective and there’s no incentive for them be used on a wide-scale --- they’ll be easily countered even if they are with limitedescalation

**Lewis 11**

(Michael W. Lewis, professor of international law and the law of war at Ohio Northern University School of Law, former Navy fighter pilot, and coauthor of ‘The War on Terror and the Laws of War: A Military Perspective,’ “Unfounded Drone Fears,” Los Angeles Times, October 17, 2011, http://articles.latimes.com/2011/oct/17/opinion/la-oe--lewis-drones-20111017)

Almost since the United States began using the unmanned aerial vehicles known as drones, their use has drawn criticism. The latest criticism, which has received considerable attention in the wake of the drone strike on Anwar Awlaki, is that America's use of drones has sparked a new international arms race.¶ While it is true that some other nations have begun developing their own unmanned aerial vehicles, the extent of the alarm is unjustified. Much of it rests on myths that are easily dispelled.¶ Myth 1: Drones will be a threat to the United States in the hands of other nations. Drones are surveillance and counter-terrorism tools; they are **not effective weapons** of conventional warfare. The unmanned aerial vehicles are slow and **extremely vulnerable** to even basic air defense systems, illustrated by the fact that a U.S. surveillance drone was shot down by a 1970s-era MIG-25 Soviet fighter over Iraq in 2002. Moreover, drones are dependent on constant telemetry signals from their ground controllers to remain in flight. Such signals can beeasily jammed or disrupted, causing the drone to fall from the sky. It's even possible that a party sending stronger signals could take control of the drone. The drones, therefore, have limited usefulness. And certainly any drone flying over the U.S. while being controlled by a foreign nation could be easily detected and either destroyed or captured.¶ Myth 2: Terrorists could effectively use drones to strike targets that are otherwise safe. Though it would be preferable if terrorist groups did not acquire drones, the technology required to support them is not particularly advanced. If organizations such as Al Qaeda were intent on acquiring the technology, they probably could. One of the reasons Al Qaeda may not have spent the time and resources necessary to do so is that drones would be of limited value. In addition to being very vulnerable to even basic air defense systems, drones require a great deal of logistical support. They have to be launched, recovered and controlled from a reasonably large and secure permanent facility. Wherever Al Qaeda's drones landed would immediately become a target.¶ It is true that a small, hand-launched drone capable of delivering a small warhead over a reasonably short distance could be, like radio-controlled model airplanes, launched in a public park or other open area and flown to a target several miles away. However, the amount of explosives that such a drone can carry is very limited (at most a few pounds) and pales in comparison to the amount of explosives that can be delivered by a vehicle or even a suicide bomber. It seems likely that terrorist groups will continue to deliver their explosives by vehicle or suicide bomber.¶ **Myth 3: The U.S. use of drones** in cases such as the Awlaki killing in Yemen **serves to legitimize their use by China or Russia. International law places the same restrictions on the use of drones**that it places on any other use of military force. The U.S. used a drone on Yemeni territory to kill Awlaki because it was given permission to do so by the Yemeni government, and because Awlaki was an active member of an Al Qaeda affiliate who had repeatedly been involved in operations designed to kill Americans at home and abroad. With such permission, the U.S. could instead have employed special forces or a conventional airstrike.¶ Numerous commentators have suggested that U.S. drone use legitimizes Russian drone use in Chechnya or Chinese drone use against the Uighurs. **If China or Russia were facing genuine threats from Chechen or Uighur separatists, they might be allowed under international law to use drones in neighboring states if those states gave them permission to do so.** However, given the fact that Chechen separatists declared an end to armed resistance in 2009, and that the greatest concern Russians currently have with Chechnya is with the lavish subsidies that Russia is currently providing it, the likelihood of armed Russian drones over Chechnya seems**remote at best.¶ Likewise, there is no Uighur separatist organization that even remotely resembles Al Qaeda. Uighur unrest has taken the form of uprisings** in Urumqi and other areas, similar to the Tibetan unrest of a few years ago. The Chinese eliminated such unrest with widespread arrests and disappearances, which raised serious human rights concerns. But there has been no time in which Uighur opposition has met the threshold established by international law that would allow for the use of armed drones in response to Uighur actions.¶ It is important to recognize drones for what they are: slow, relatively low-tech anti-terrorism tools that would be of limited use on most modern battlefields and are particularly unsuited to use by terrorist organizations.

## New Adv

### 1NC

#### No scenario for nuclear terror---consensus of experts

Matt **Fay ‘13**, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

**For over a decade now, one of the most oft-repeated threats** raised by policymakers—the one that in many ways justified the invasion of Iraq—**has been that of nuclear terrorism. Officials** in both the Bush and Obama administrations, including the presidents themselves, **have raised the specter of the atomic terrorist.** But *beyond mere rhetoric, how likely is a nuclear terrorist attack* really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of **scholars** in recent years **have pushed back** against this trend. Frank **Gavin has put post-9/11 fears of nuclear terrorism into historical context** (pdf) **and***argued against**the**prevailing alarmism*. Anne **Stenersen** of the Norwegian Defence Research Establishment **has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon.**John *Mueller ridiculed the notion of nuclear terrorism* in his book Atomic Obsessions **and highlighted the numerous steps a terrorist group would need to take**—all of which would have to be successful—**in order to procure, deliver, and detonate an atomic weapon. And** in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael **Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the U**nited **S**tates—**citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place**.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while **others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists**, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: *states will not turn over nuclear weapons terrorists*. To back up this claim, **Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address**.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [**N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack**. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, **attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from** the constraints of **deterrence**.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, **fears of nuclear terrorism have been used to justify a wide-range of policies**—up to, and including, military action. **Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—***nuclear terrorism hardly warrants*the type of exertions many *alarmist assessments* indicate it should.

#### Threats of new conflict are empty threats—won’t happen or escalate

Eldar, 8-2-13

[Shlomi Eldar is a contributing writer for Al-Monitor’s Israel Pulse., Hezbollah's Empty Threats Against Israel Read more: http://www.al-monitor.com/pulse/originals/2013/09/israel-threats-iran-hezbollah-hamas-missiles-us-attack-syria.html#ixzz2kuE3GPul] /Wyo-MB

It’s the perfect time for all the illustrious heroes to make threats. Syria is threatening to fire missiles at Tel Aviv if the United States attacks. Like a mosquito threatening to sting the elephant on whose ear it is perched, Syrian President Bashar al-Assad thinks that no one will notice that his army is shattered after a long war of attrition against the rebels. Tens of thousands of soldiers have already gone AWOL, and this army even needed Hezbollah’s help to win back the strategic town of Qusair.¶ Hassan Nasrallah, secretary-general of Hezbollah, is also puffing out his chest, but he is being a bit wiser about it. He has troubles of his own in Lebanon, so that if he is to avoid further criticism at home or new attacks against Hezbollah targets, he has no choice but to speak out of both sides of his mouth. On one hand, the head of the Hezbollah bloc in Lebanon’s parliament, Mohammad Raad, promised the Lebanese prime minister that Hezbollah will not open fire if Syria is attacked. It will not get Lebanon entangled in another destructive war against Israel, he declared. In fact, Hezbollah is actually increasing the number of troops stationed in southern Lebanon. If Tehran demands that Hezbollah respond, it will have no choice but to comply.¶ Meanwhile, the Iranians are issuing vociferous threats of their own. Chief of Staff Hassan Firouzabadi has promised that any attack on Syria would cause “big problems for America’s allies.” Firouzabadi thinks that everyone has forgotten the effect that sanctions have had on Iran, and that an Iranian attack on Israeli and American targets or the launching of a regional war, as he has threatened to do, would result in a devastating blow to his country’s nuclear project.¶ The most ridiculous threat of all comes from the Gaza Strip. It is not from Hamas, which is still licking its wounds as a result of the severe blow suffered by the Muslim Brotherhood, but from the Islamic Jihad movement, whose spokespeople told Hazem Balousha, Al-Monitor’s reporter in the Palestinian territories, that “up until now, there has been no decision within Islamic Jihad to bomb Israel in response to an aggression on Syria. But that may happen in one circumstance: if Israel joins that war as a principal party.”¶ In other words, it turns out that everyone’s a hero. Islamic Jihad is a tiny organization that operates out of the Gaza Strip. It receives direct support from Iran. From an operational standpoint, Israel has no problem striking a harsh blow against it by assassinating the movement’s leaders.¶ Ramadan Shalah, the head of the group, is based permanently in Damascus, but ever since the regime of his patron Assad began to totter, he has been uncharacteristically silent. It is as if the earth had swallowed him up. “Jerusalem Brigades,” which serves as the group’s military wing in the Gaza Strip, constantly poses a challenge to Hamas, provoking that movement by claiming that it is carrying on the armed struggle against Israel, while Hamas has abandoned the Palestinian cause and would rather just keep itself in power. But like all of its threats against Israel, this verbal assault on Hamas is nothing more than bluster.¶ Today Hamas is at a low point. It would never dare provoke or even anger Israel, since that would put its control of the Gaza Strip at risk. As far as Hamas is concerned, opening a front against Israel now would have dire consequences, almost as severe as the consequences of the feud that broke out between Hamas and Iran, or the decision to depend on former Egyptian President Mohammed Morsi, or the belief that Qatar will continue to support them even after the abdication of the Emir Hamad bin Khalifa Al Thani. Much to the chagrin of Hamas' leaders, both Morsi and the emir have vanished from the map.¶ Will Hamas allow the Islamic Jihad’s Jerusalem Brigades to put it at risk? Will it allow Ramadan Shalah to drag it into a war with Israel, thereby granting Israel cause to assassinate the Hamas leadership? The answer is clear. Hamas is engaged in a struggle to prevent other militant groups in Gaza from dragging it into a war, especially at this point in time. Its ruling capacity will be tested by this.¶ There are those who will argue that by ignoring some potential provocation launched by Islamic Jihad against Israel, Hamas could get back into Tehran’s good graces. But Hamas is stuck between a rock and a hard place, as Hamas Prime Minister Ismail Haniyeh, Hamas political bureau chief Khaled Meshaal and Marwan Issa, the head of the group’s military wing, well know. They will therefore prevent any other group from putting their tenuous grip on power at risk.¶ So what’s left? Just empty threats. Everyone can puff out their chests, threaten to set Tel Aviv on fire, and cause a host of problems to US allies. This terminology is taken from the fantasy world. It has plenty of imagination in it, with a refusal to recognize the real operational capacities of those proffering the threats. This does not mean that if Damascus is attacked, they will all restrain themselves or scurry underground. On the other hand, these threats should be placed in their proper perspective.¶ In the event of an attack on Syria by a large American and international military force, all that Nasrallah and Ramadan Shalah can really do is rattle their swords and make a little noise. § Marked 06:09 § The main reason they would even do that is to keep their dignity intact and show the Iranians that they are not standing idly by when these events unfold. What they will really be hoping, however, is that it all ends as quickly as possible.

#### The plan doesn’t create a new charter –the whole mission of the CIA must be rechartered back to intelligence gathering

Prados –12

[John, Senior Fellow and Co-Director of the Iraq Documentation Project, and Director of the Vietnam Project at the National Security Archive at The George Washington University, "The Continuing Quandary of Covert Operations," JOURNAL OF NATIONAL SECURITY LAW andPOLICY, Vol. 5:359 2012, //uwyo-baj]  
The legitimate vehicle for the expression of this formula is a CIA charter, or more precisely a charter covering the intelligence community as a whole. Charter legislation is the place to reframe all the questions of regulation and responsibility for various aspects of intelligence agency roles and missions that have been raised here and in other recent assessments of covert operations. Congress and the Executive failed to reach agreement on intelligence charter legislation during the Carter administration. It is long overdue, and its necessity has only been confirmed by recent excesses..

#### Squo laws solve- aff only risks gutting effectiveness

Friesen ‘13

(Sarah Friesen is currently a member of the Young Leaders Program at The Heritage Foundation and research expert. “Contrary to Popular Belief, Drones Not All Bad” April 18, 2013 at 4:00 pm http://blog.heritage.org/2013/04/18/contrary-to-popular-belief-drones-not-all-bad/,TSW)

Last week, Politico published an article on America’s misconception of drones, and why those misconceptions can, and should, be remedied. As technology advances, the ways in which it can be exploited grows. Drones are no exception. While steps need to be taken to ensure that privacy rights are protected from drone activities, the U.S. should not unnecessarily restrain such a valuable technology. Today, the public has a negative perception of drones—to put it mildly. The connotation is generally that of Big Brother watching Americans going about their daily lives—all under the guise of keeping us “safe,” of course. This is far from reality. Drones do, in fact, provide many services that keep Americans safe. These include: Border patrol security Emergency preparation and disaster response Cargo delivery (private sector) Maritime domain awareness Environmental monitoring (flooding, dams, levees, etc.) Law enforcement (pursuit or search and rescue) Arguably, these are all things that need to be done. Drones provide a cheaper platform that keeps the pilot out of any potential danger. This raises the obvious question: If drones have good uses, then why do people think they are so bad? Ellen Tauscher, former Undersecretary of State for Arms Control and International Security says that a big contributor to the problem is that “there are too many different names being used to describe the technology.” Having so many names floating about only exacerbates an already confusing topic. One of the many names for drones is “unmanned aerial vehicle.” This is entirely inaccurate. Drones, like planes and helicopters, do have pilots, but they fly the drones remotely. Another aspect of the confusion surrounding drones, according to Politico, is the secrecy that shrouds how the military uses them. It seems that this secrecy has led to speculation that has tainted the American public’s view of drones in general, both military and non-military. America needs to ensure that guidelines for the domestic usage of drones are based on fact, not speculation. Generally, drones can and should be regulated by the laws already in place dealing with aerial surveillance. This is the route that should be taken instead of requiring a warrant for drone usage in the U.S. This would not only severely restrict the effectiveness of drones but also be a misapplication of the Fourth Amendment. The government and the private sector need to present a coherent and clear picture to the American people of what drones really are. If the public’s inaccurate and negative perception of drones is not altered, it could influence policy to the point of depriving America of a truly valuable tool.

#### Hezbollah not interested in causing conflict

Albabwa news, 11-16-13

[Staff writer, U.N cheif urges Hezbollah to pull out of Syria, http://www.albawaba.com/news/hezbollah-syria-un-533923] /Wyo-MB

Israeli Defense Minister Moshe Yaalon said the soldiers were wounded during an “operational activity meant to preserve the calm for the northern communities in particular and for the residents of Israel in general.”¶ But Hezbollah leader Sayyed Hasan Nasrallah said his group was responsible for wounding the Israeli soldiers, and that the party had prior information that two Israeli units were planning to infiltrate Lebanon.¶ In a sign that neither Israel nor Hezbollah have an appetite for conflict, both sides cooperated closely with UNIFIL in the aftermath of the Israeli incursion and emphasized their commitment to the cease-fire.¶ Despite allegations by Israel that the Syrian regime is transferring weapons to Hezbollah, and claims that the party is smuggling weapons into populated areas in south Lebanon, the Ban said UNIFIL had no evidence that substantiated Israel’s claims.

#### No risk of Hezbollah driven war—deterrence and Syria focus solve

Harel, 11-16-13

[Amos, Haaretz news service, Hezbollah threat wanes, but rising new players in Lebanon present Israel with new challenge, http://www.haaretz.com/weekend/1.558237] /Wyo-MB

Two visits to the Lebanon border within a week reveal a new reality. Concern about the eruption of a military confrontation with Hezbollah there − which is something that has in the past dictated many of the Israel Defense Forces’ moves along the border − is fading. A feeling of mutual deterrence between Israel and Hezbollah appears to be taking root, and is helping to restrain both sides, besides which the Shi’ite organization is deeply involved in the civil war in Syria. At the same time, that protracted conflict is also aggravating instability in Lebanon, reducing Hezbollah’s control over developments there and introducing into the arena new players with whom Israel has not previously had to cope.

#### Over-classification of info guts intel efforts-

**Branfman 9/25** – (Fred -- Director of Project Air War, interviewed the first Lao refugees brought down to Vientiane from the Plain of Jars in northern Laos, visited U.S. airbases in Thailand and South Vietnam, talking with U.S. Embassy officials, Alternet)

Executive over-classification of information lies at the heart of its many threats to democracy. It classifies enormous amounts of information that could be of no conceivable use to our enemies, e.g. the equivalent of 20 million filing cabinets one agency § Marked 06:09 § classified in one 18-month period alone. Secrecy is by its very nature undemocratic. Executive classification of documents is also at the very heart of its threats to journalists and whistleblowers seeking to uncover Executive abuses. Daniel Ellsberg has written an important article [19] on how and why the Executive over-classifies information: "One of the most experienced security authorities in the Pentagon, William F. Florence, who had drafted many of the Department of Defense regulations on classification, testified as an expert witness in Congressional hearings and in my trial that at most 5% of classified material actually satisfied the official criteria of potential relevance to national security (which he had played a major role in formulating) at the moment of original classification; and that perhaps 1/2 of 1% continued to justify protection after two or three years." If 95% of what is classified would not help our enemies, why does it remain classified? Part of the answer is that if it was revealed it would embarrass Executive Branch officials, and/or reveal waste, fraud, abuse and illegal acts that could lead to calls to cut their budgets, their dismissal, and/or prosecution. As Dana Priest and Bill Arkin also note in Top Secret America, a top-secret classification is a "passport to prosperity for life." It provides well-paying jobs and its holders are far less likely to face unemployment than those in the private sector. Ellsberg also tellingly explores the psychological dimensions of the classification system: "I suggest that there are psycho-social aspects (that) apply to 'secret societies' ranging from the Mafia or associations like the Masons to the CIA. It is a mark of worth, of membership in a valued group, possession of a valuable identity. It is a sign of being trusted by other members of the prestigious group: a token of being perceived by them as trustworthy, worthy of membership, of being 'one of them,' a 'brother' or 'member of the family.' Not only the membership in the group, but the specific acceptance of one's loyalty — to the group, to its purposes, to the other members, and its secrets— conveys and expresses a new, prestigious status, a positive identity, a source of self-respect and pride and a basis for the respect and deference of others."

#### Mutual deterrence solves

Harel, 11-16-13

[Amos, Haaretz news service, Hezbollah threat wanes, but rising new players in Lebanon present Israel with new challenge, http://www.haaretz.com/weekend/1.558237] /Wyo-MB

In any event, quiet has returned to the border area − not necessarily for 40 years, as Prime Minister Menachem Begin aspired to at the outset of the 1982 Lebanon war. But even seven years is an impressive feat, particularly in light of the limited achievements of the Second Lebanon War itself.¶ However, the reason for the calm - contrary to the claim of supporters of former Prime Minister Ehud Olmert, who point to his supposed great management of the war - is becoming clear only in retrospect. The quiet is founded mainly on mutual deterrence. Although the IDF’s vast destructive capability is deterring Hezbollah, Israel is apprehensive about the tens of thousands of rockets in that organization’s possession. In the absence of a direct interest in a confrontation, the army can continue to prepare itself for any future contingency. Now that the government has approved a controversial budget increment for the IDF, it’s to be hoped that the money will be earmarked for the right purposes and that, when the moment of truth does arrive, the army will not be caught unfit and unprepared, as in 2006.

#### Political negotiations solve

Harel, 11-16-13

[Amos, Haaretz news service, Hezbollah threat wanes, but rising new players in Lebanon present Israel with new challenge, http://www.haaretz.com/weekend/1.558237] /Wyo-MB

Still, at this point in time, these scenarios appear to be relatively distant. Hezbollah is now caught in a vice of internal constraints, not least growing criticism in Lebanon over its role in the war in Syria. This, in turn, has prompted challenges to the organization from both the Lebanese government and extremist Sunni organizations. Under this political pressure, Hezbollah has dismantled military checkpoints that it had manned for many years, in Lebanon’s Bekaa Valley and in Dahiya, the Shi’ite quarter of Beirut. For the first time, residents of Dahiya also came under attack by Sunni militias, in the form of rocket fire and a booby-trapped car.¶ For now, the border with Israel remains quiet, thanks in part to a periodic tripartite meeting of representatives from the IDF, the United Nations Interim Force in Lebanon and the Lebanese army, at the Nakura crossing. There was almost a flare-up in mid-October, when Lebanese farmers harvested olives in a salient that is under Israeli sovereignty, though located north of the border fence. IDF and Lebanese army troops arrived on the scene. Senior officers who were called to the scene, however, were able to cool down the atmosphere and disperse the soldiers, who had their weapons aimed at one another.¶ “It would have been enough for one idiot to fire a first bullet for us not to have been able to stop the shooting for two hours, and without anyone even wanting a confrontation,” a senior IDF officer told Haaretz.

#### shift now

Jack Goldsmith, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, 3/20/13, No More Drones For CIA, www.lawfareblog.com/2013/03/no-more-drones-for-cia/

That is the title of Dan Klaidman’s important story:

Three senior U.S. officials tell The Daily Beast that the White House is poised to sign off on a plan to shift the CIA’s lethal targeting program to the Defense Department. . . .The proposed plan would unify the command and control structure of targeted killings, and create a uniform set of rules and procedures. The CIA would maintain a role, but the military would have operational control over targeting. Lethal missions would take place under Title 10 of the U.S. Code, which governs military operations, rather than Title 50, which sets out the legal authorities for intelligence activities and covert operations.

Quick reactions:

(1) It is not clear what is at stake here, especially if, as Marc Ambinder reports, the Air Force currently operates and “presses the button that releases the missile” on CIA drones. At least two things appear to be involved in the shift: (a) CIA will no longer be determining who is killed, and (b) CIA might no longer “own” armed drones (Ambinder reports that CIA has 30 UAVs, but it is unclear how many are armed). Presumably CIA will still play a heavy role in the intelligence side of drone strikes – which, as I understand it, is 99% of the operation. In that light, it is unclear what Klaidman entails when he says that “a potential downside of the Agency relinquishing control of the program was the loss of a decade of expertise that the CIA has developed since it has been prosecuting its war in Pakistan and beyond,” and adds that “for a period of transition, CIA operators would likely work alongside their military counterparts to target suspected terrorists.”

# 2NC

# CP

### Intel

#### Obviously we solve this b/c we share intel and solve the trade off link- no drones missions for the CIA

### Signal

#### Second, unilateralism key

Singer 13

[Singer, director – Center for 21st Century Security and Intelligence @ Brookings, and Wright, senior fellow – Brookings, 2/7/’13

(Peter W. and Thomas, "Obama, own your secret wars", www.nydailynews.com/opinion/obama-secret-wars-article-1.1265620])

It is time for a new approach. And **all that is required** of the President is to do the thing that he does perhaps best of all: to speak.

Obama has a unique opportunity — in fact, an urgent obligation — to create a new doctrine, unveiled in a major presidential speech, for the use and deployment of these new tools of war.

While the Republicans tried to paint the President as weak on security issues in the 2012 elections, history will record instead that his administration pushed into new frontiers of war, most especially in the new class of technologies that move the human role both geographically and chronologically further from the point of action on the battlefield.

The U.S. military’s unmanned systems, popularly known as “drones,” now number more than 8,000 in the air and 12,000 on the ground. And in a parallel development, the U.S. Cyber Command, which became operational in 2010, has added an array of new (and controversial) responsibilities — and is set to quintuple in size.

This is not just a military matter. American intelligence agencies are increasingly using these technologies as the tips of the spear in a series of so-called “shadow wars.” These include not only the more than 400 drone strikes that have taken place from Pakistan to Yemen, but also the deployment of the Stuxnet computer virus to sabotage Iranian nuclear development, the world’s first known use of a specially designed cyber weapon.

Throughout this period, the administration has tried to have it both ways — leaking out success stories of our growing use of these new technologies but not tying its hands with official statements and set policies.

This made great sense at first, when much of what was happening was ad hoc and being fleshed out as it went along.

But that position has become unsustainable. The less the U.S. government now says about our policies, the more that vacuum is becoming filled by others, in harmful ways.

By acting but barely explaining our actions, we’re creating precedents for other states to exploit. More than 75 countries now have military robotics programs, while another 20 have advanced cyber war capacities. Rest assured that nations like Iran, Russia and China will use these technologies in far more crude and indiscriminate ways — yet will do so while claiming to be merely following U.S. footsteps.

In turn, international organizations — the UN among them — are pushing ahead with special investigations into potential war crimes and proposing new treaties.

Our leaders, meanwhile, stay mum, which isolates the U.S. and drains its soft power.

The current policy also makes it harder to respond to growing concerns over civilian casualties. Indeed, Pew polling found 96% levels of opposition to U.S. drones in the key battleground state of Pakistan, a bellwether of the entire region. It is indisputable than many civilians have been harmed over the course of hundreds of strikes. And yet it is also indisputable that various groups have incentives to magnify such claims.

Yet so far, U.S. officials have painted themselves into a corner — either denying that any collateral losses have occurred, which no one believes, or reverting to the argument that we cannot confirm or deny our involvement, which no one believes, either.

Finally, the domestic support and legitimacy needed for the use of these weapons is in transition. Polling has found general public support for drone strikes, but only to a point, with growing numbers in the “not sure” category and growing worries around cases of targeting U.S. citizens abroad who are suspected of being terrorists.

The administration is so boxed in that, even when it recently won a court case to maintain the veil of semi-silence that surrounds the drone strike program, the judge described the current policy as having an “Alice in Wonderland” feel.

The White House seems to be finally starting to realize the problems caused by this disconnect of action but no explanation. After years of silence, occasional statements by senior aides are acknowledging the use of drones, while lesser-noticed working level documents have been created to formalize strike policies and even to explore what to do about the next, far more autonomous generation of weapons.

These efforts have been good starts, but they have been disjointed and partial. Most important, they are missing the **much-needed stamp of the President’s voice and authority**, which is essential to turn tentative first steps into established policy.

Much remains to be done — and said — out in the open.

This is why it’s time for Obama’s voice to ring loud and clear. Much as Presidents Harry Truman and Dwight Eisenhower were able keep secret aspects of the development of nuclear weapons, even as they articulated how and when we would use them, Obama should publicly lay out criteria by which the United States will develop, deploy and use these new weapons.

The President has a strong case to make — if only he would finally make it. After all, the new weapons have worked. They have offered new options for military action that are more accurate and proportionate and less risky than previously available methods.

But they have also posed many new complications. Explaining our position is about embracing both the good and the bad. It is about acknowledging the harms that come with war regardless of what technology is being used and making clear what structures of accountability are in place to respond.

It’s also about finally defining where America truly stands on some of the most controversial questions. These include the tactics of “signature” strikes, where the identity is not firmly identified, and “double tap” strikes, where rescuers aiding victims of a first attack are also brought under fire. These have been reported as occurring and yet seem to run counter to the principles under which the programs have been defended so far.

The role of the President is not to conduct some kind of retrospective of what we have done and why, but to lay out a course of the future. What are the key strategic goals and ethical guidelines that should drive the development and use of these new technologies? Is current U.S. and international law sufficient to cover them?

There are also crucial executive management questions, like where to draw the dividing line between military and civilian intelligence agency use of such technologies, and how to keep a growing range of covert actions from morphing into undeclared and undebated wars.

And, finally, the President must help resolve growing tensions between the executive branch and an increasingly restive Congress, including how to handle situations where we create the effect of war but no U.S. personnel are ever sent in harm’s way.

Given the sprawling complexity of these matters, only the President can deliver an official statement on where we stand. If only we somehow had a commander in chief who was simultaneously a law professor and Nobel Peace Prize winner!

The President’s voice on these issues won’t be a cure-all. But it will lay down a powerful marker, shaping not just the next four years but the actions of future administrations.

#### unilateralism key

The Economist 2013

[The Economist, June 21st, 2013, Out of the shadows, http://www.economist.com/news/united-states/21578689-barack-obamas-rules-drones-could-shape-new-global-laws-war-out-shadows, uwyo//amp]

Mr Obama left himself wriggle-room, for example over how an imminent threat should be defined. Much damage has already been done to America’s diplomatic standing worldwide and to its image among Muslims. But if, by binding America unilaterally to higher standards, Mr Obama helps set norms for other countries as they acquire drones, that would be something. Such example-setting is a slow process, says Mr Bellinger, but “this is how customary international law is made”. Mr Obama had several aims, says Benjamin Rhodes, a deputy national security adviser who wrote the president’s speech. Since the war on terror has lasted for so long and shows no sign of ending, it was time to “bring in” the American public by explaining the rules for drones, he says. The swift spread of technology also provided a spur. Other countries will soon have killer drones. Only if America can describe the international legal framework for its own strikes with “specificity” will it be able to shape the new laws of war.

### AT: Maxwell

1st- this evidence is rhetorically powerful but does not have a warrant- the evidence says lack of congressional authority means rogue states have a road map for modeling US foreign policies but it does not say WHY- this means you should frame the question of the signal debate through a low-threshold- as long as we have comparative evidence that says the president’s signal is perceived and credible, a lens of sufficiency should be enough to move the signal solvency deficit from marginal to zero-

2nd- The aff doesn’t solve this evidence- it’s about amending the AUMF, NOT the aff- means that our drones specific modeling cards should be preferred and you should grant 0% solvency of this evidence to the aff because the AUMF remains unamended by the aff, meaning any singal they send doesn’t alter that signal of the AUMF

### AT: Goldsmith 1

1st- there’s no impact to public trust- you should be skeptical of any extrapolations that say public trust is key to modeling or their other advantage- any solvency that is predicated on ending CIA drone strikes obviously is solved by the CP, at best it’s a deficit to the norms adv- but that is about public perception NOT domestic perception

#### No foreign backlash

Byman 13 (Daniel, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, Foreign Affairs, “Why Drones Work: The Case for Washington’s Weapon of Choice”, July/August 2013, ZBurdette)

FOREIGN FRIENDS

It is also telling that drones have earned the backing, albeit secret, of foreign governments. In order to maintain popular support, politicians in Pakistan and Yemen routinely rail against the U.S. drone campaign. In reality, however, the governments of both countries have supported it. During the Bush and Obama administrations, Pakistan has even periodically hosted U.S. drone facilities and has been told about strikes in advance. Pervez Musharraf, president of Pakistan until 2008, was not worried about the drone program’s negative publicity: “In Pakistan, things fall out of the sky all the time,” he reportedly remarked. Yemen’s former president, Ali Abdullah Saleh, also at times allowed drone strikes in his country and even covered for them by telling the public that they were conducted by the Yemeni air force. When the United States’ involvement was leaked in 2002, however, relations between the two countries soured. Still, Saleh later let the drone program resume in Yemen, and his replacement, Abdu Rabbu Mansour Hadi, has publicly praised drones, saying that “they pinpoint the target and have zero margin of error, if you know what target you’re aiming at.” As officials in both Pakistan and Yemen realize, U.S. drone strikes help their governments by targeting common enemies. A memo released by the antisecrecy website WikiLeaks revealed that Pakistan’s army chief, Ashfaq Parvez Kayani, privately asked U.S. military leaders in 2008 for “continuous Predator coverage” over antigovernment militants, and the journalist Mark Mazzetti has reported that the United States has conducted “goodwill kills” against Pakistani militants who threatened Pakistan far more than the United States. Thus, in private, Pakistan supports the drone program. As then Prime Minister Yousaf Raza Gilani told Anne Patterson, then the U.S. ambassador to Pakistan, in 2008, “We’ll protest [against the drone program] in the National Assembly and then ignore it.” Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by anti-drone organizations, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as seal team raids or cruise missile strikes, would make the United States more popular.

The public loves drones—more likely to roll back the plan

LaFranchi 6/3/13

Howard LaFranchi, Staff writer, CSMonitor, June 3, 2013, "American public has few qualms with drone strikes, poll finds", http://www.csmonitor.com/USA/Military/2013/0603/American-public-has-few-qualms-with-drone-strikes-poll-finds

When a US drone strike last week killed a top Taliban leader in Pakistan, critics of the strikes that have become a staple of President Obama’s counterterrorism policy were quick to condemn it. The killing of Waliur Rehman in the North Waziristan region on May 29 would only make reconciliation talks between the Taliban and the Afghan government – a US priority – more difficult to convene, some critics said. Others said such strikes infuriate local populations and are a recruiting tool for Al Qaeda and other Islamist extremists. But the American public appears to be unmoved by such arguments. A new Monitor/TIPP poll finds that a firm majority of Americans – 57 percent – support the current level of drone strikes targeting “Al Qaeda targets and other terrorists in foreign countries.” Another 23 percent said the use of drones for such purposes should increase. Only 11 percent said the use of drones should decrease. The poll, conducted from May 28-31, followed a major speech in which Mr. Obama suggested the use of drone strikes would decline. In the May 26 address, he also hinted at his own ambivalence about the controversial tactic, weighing the program’s efficacy against the moral questions and long-term impact. Obama acknowledged that the pluses of drone strikes – no need to put boots on the ground and the accuracy and secrecy they offer – can “lead a president and his team to view drone strikes as a cure-all for terrorism.” He balanced that against words of caution: “To say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance.” The drone strikes, which under Obama have mostly been carried out in secrecy by the CIA, are credited with killing as many as 3,000 terrorists and Islamist militants – at least four of whom were American citizens. Obama is planning to shift most drone operations to the military as part of an effort to make the program more transparent. Americans are by and large comfortable with drone strikes being ordered by the president, the CIA, or by the military, according to the Monitor poll. Less popular is the idea of creating a separate “drone court” – a panel that would presumably increase the accountability of the program. Almost two-thirds of Americans (62 percent) say they approve of drone-strike authorization coming from the president, the Pentagon, or the CIA. About a quarter (26 percent) favor setting up a drone court to sign off on strikes.

### AT: Goldsmith 2

This evidence does NOT say that international or domestic support is contingent on congressional status-it says the president NEEDS public and international backlash, both pieces of evidence above answer this

AND this evidence is also about the AUMF

And the CP doesn’t link to this evidence because it assumes the squo where Obama has refused to detail what qualifies someone for his kill list- aff obviously doesn’t resolve this AND public ending/announcement of the end of CIA control solves because it is clear and not abstract or limited

## AT: PDCP

**[A.] Interpretation: Statutory and/or judicial restrictions on presidential War Powers authority requires an external agent to place limit on the executive branch.**

**1. Statutory restriction are limits placed on authorized activities by the legislature**

**Black’s Law**

[“statutory restriction”, <http://thelawdictionary.org/statutory-restriction/>, accessed 6-2-13, AFB]

Limits or controls that have been place on activities by its ruling legislation.

**[B.] Violation – the affirmative uses the executive branch to increase constraints on presidential war powers – executive branch actions are discretionary judgments that are within the boundaries of delegated authority. Restricting it requires action from another branch**

**Luna, 2k** (Erik, professor of law at the University of Utah, 85 Iowa L. Rev. 1107, May, lexis)

For present purposes, a modest definition will suffice--discretion is the power to choose between two or more courses of conduct. **An official**, therefore, **has discretion when the boundaries of** his **authority leave** him with **the freedom to choose how to act--or not to act.** n88 This discretionary power is a "residual" n89 concept, the latitude remaining after the authority and decisions of other actors have been tallied. Dworkin employed a colorful simile for discretion to capture its relative, contextual nature: "Discretion, like the hole of a doughnut, does not exist except as an area left open by a surrounding belt of restriction." n90 Using this pastry-based metaphor, imagine a box containing a single doughnut. If the box's total area represents all potential courses of conduct for a particular actor, and the doughnut symbolizes the restrictions on the actor's discretion, the region within the doughnut--the doughnut hole--delineates the totality of his discretionary power. Outside of this area, the actor has no freedom of choice; he must either act in a prescribed manner or not act at all. In other words, the actor is without discretion. Greater specificity is possible by delineating discretion within American constitutionalism. Discretion inheres in each of the three branches of government--the legislative, the executive, and the judicial. n91 The term "ex  [\*1134]  ecutive discretion," therefore, refers to the authority of executive officers to choose how to act or not to act. A variety of officials enforce federal or state laws and are appropriately deemed **executive officers**--the President, the Secretary of Defense, a state governor, a city mayor, the local dog catcher, and so on. Each of these officials **exercise**s **a degree of executive discretion to choose a particular course of conduct without violating the dictates of the other branches**. For example, a state legislature might mandate that restaurants cook food in a "safe environment"; a state court might then interpret "safe" as referring to bacterial and viral hazards to the customers rather than the risks of the work environment to the employees. But **once the legislative branch has enacted the law and the judiciary has interpreted the law** (or squared it with the relevant constitutional provisions), **the executive official generally has the discretion to enforce the law as seen fit**. The relevant executive officer might, for instance, establish a grading system or minimum standards for the sanitary condition of restaurants. It is this residual power, the freedom to choose a particular course of conduct after the other branches have exercised their authority, that can be referred to as executive discretion. B. Criminal Justice Discretion in the Abstract Discretion can be further specified by placing it within the context of penal law. American constitutionalism has adopted a number of strategies to strike a balance between individual liberty and societal order in the criminal justice system. n92 Most notably, the federal Constitution enumerates individual rights protected from "the vicissitudes of political controversy," n93 thereby removing certain subjects as fodder for order maintenance. But American constitutionalism also secures order and liberty through the structural design of government, dividing official power between the three coordinate branches. n94 Specifically, the legislature determines what acts are criminal and subject to coercive sanction. The judiciary interprets the criminal law where necessary, nullifies those penal statutes that are deemed inconsistent with relevant constitutional provisions, and precludes certain modes of enforcement of otherwise valid criminal laws. Finally, the executive enforces those criminal laws that have been duly enacted by the  [\*1135]  legislature and approved by the judiciary, pursuant to procedures prescribed by the legislature or (more likely) found by the courts to pass constitutional muster. A couple of caveats should be mentioned. Not all laws are backed by penal sanctions, and not all executive officials are empowered to enforce criminal law. In general, only two groups--police and prosecutors--have the authority to implement the relevant penal code. The term "police" refers to those actors officially licensed to uncover and investigate crime and arrest suspected offenders: FBI agents, city police officers, county sheriffs, and so on. Similarly, the term "prosecutors" refers to the officials authorized to bring criminal charges against an alleged offender and to represent the government in a subsequent criminal case against the accused: the U.S. Attorney General, a U.S. Attorney, a state attorney general, a county district attorney, and their subordinates. Moreover, the passage, judicial approval, and execution of a penal statute do not necessarily follow a linear progression in practice. A given criminal law might be enacted and administered, but its constitutionality might never be questioned in the courts. Or the statute might be judicially approved in an initial proceeding but subsequently unenforced by executive officials. In turn, the courts might strike down a criminal law prior to enforcement, or the statute might not be reviewed until some official attempts to apply its strictures to a particular individual. Moreover, the ostensibly clean division among the three branches is the subject of ongoing academic and professional debate, including the battle between "formalism" and "functionalism" in the separation of powers. n95 Finally, various checks and balances are intended to ensure an interrelationship and interdependency among the branches of government. For example, a proposed federal criminal statute only becomes law if the President signs the bill or if Congress overrides his veto by a two-thirds majority. With these admonitions, it can be said that the legislature enacts criminal laws, the judiciary reviews the constitutionality of the laws and relevant enforcement procedures, and the executive administers the laws consistent with the mandates of the other branches. n96 **An executive officer is without authority to suppress conduct that the legislature has not deemed criminal**. Likewise, the officer has no power to enforce penal statutes that have been judicially invalidated or to use enforcement techniques disapproved by the courts.  [\*1136]  Building upon Dworkin's doughnut metaphor, Figure 1 schematically depicts American criminal justice. n97 The total area of the figure represents all potential combinations of criminal law and enforcement procedures. The area within the exterior circle ("the legislative act") depicts all conduct that has been criminalized by the legislature and the methods of enforcement that have been expressly or implicitly approved by the legislature. n98 The first band within the circle (B) represents those laws that the judiciary deems substantively invalid and therefore unenforceable under any procedure. The second band (C) represents those criminal statutes that pass constitutional muster but are being administered in an unconstitutional fashion. Finally, the internal core (D) depicts **the combination of criminal laws and enforcement procedures that have been enacted by the legislature** and are deemed unobjectionable by the courts. This area **represents executive discretion in criminal justice--the freedom to enforce or not enforce particular criminal laws** pursuant to particular procedures **without interference from the other branches**.  [\*1137]  To test this structure, imagine a hypothetical law "making it a crime for any person to remove another person's gall bladder." n99 Prior to the statute's enactment, assume that it was perfectly legal to remove gall bladders for any reason; graphically, this conduct exists outside of the exterior circle (A) and therefore well beyond any type of executive discretion to administer coercive sanctions. Once duly enacted by the legislature, the courts might review the statute's content under the substantive constitutional provisions: First Amendment freedom of speech and conscience, Fifth Amendment substantive due process, Eighth Amendment prohibition of cruel and unusual punishment, Fourteenth Amendment equal protection, and so on. If the gall bladder statute was found to be constitutionally obnoxious as a matter of substance--lying in area B of the graph--the executive branch would be precluded from enforcing this statute under any policing methodology. Now assume that the courts determine that there is nothing objectionable about the law's content but find that the mode of enforcing its provisions violates the procedural aspects of the Constitution. For example, maybe the police burst into a doctor's office without a warrant or probable cause and discover her performing the prohibited operation; or maybe law enforcement agents beat the physician into confessing her crimes. This time the problem is not the substance of the statute but the executive officer's impermissible enforcement. The police conduct--represented in area C--is lawless and therefore, outside the area of executive discretion. Once again, in area A the executive has not been authorized to act by the legislature; in area B the judiciary has invalidated the relevant criminal  [\*1138]  statute as substantively unconstitutional; and in area C the courts have precluded a particular enforcement methodology of an otherwise valid law. What if the legislature enacts the gall bladder statute and the courts approve both the substantive content of the law and the subsequent method of enforcement? This combination of criminal law and police procedure lies in area D, the totality of executive discretion in criminal justice. In this area, executive officials exercise complete freedom in the administration of the criminal law. In the abstract, **the legislative and judicial branches might** make every **attempt to narrow the scope of unchecked executive discretion. For example, lawmakers might** enact only a few criminal statutes and **repeal** ineffective or counterproductive **laws, thereby limiting the grounds for** coercive **enforcement**. Statutory drafters might also be very specific in the coverage of a particular provision, making clear the situations in which the law applies. **In turn, the judicial branch might exercise substantial oversight in all facets of the criminal process, including decisions not to enforce the law**. Courts might strike down or narrowly interpret vague criminal statutes and refuse to allow the application of penal provisions suffering from desuetude. Judicial review might freely entertain claims of selective enforcement or prosecutorial overreaching in the plea bargaining process. Graphically, the circumference of legislatively proscribed conduct ("the legislative act") would be relatively constricted, the band of judicial review and invalidation (B and C) would be broad, and the residual area of executive discretion (D) would be quite small.

**[C.] Prefer our interpretation**

**1. Ground and limits – internal executive reforms and actions can take an incredibly wide array of mechanisms to act and crush the core negative ground which assesses the importance of external branch check on the executive – leaving executive counterplan ground and bypass arguments is key to level the playing field for the negative.**

**2. Education – the topic paper explicitly was written with a core controversy of separations of powers debates with war powers in mind – allowing the aff to fiat executive reform crowds out competitive strategies that test that core controversy.**

**[D.] Topicality is a voting issue – rule of game, fairness, and education**

### AT: LX to Politics F/L

#### First, CP is executive action—obviously avoids Congressional fights

Fine 12

Jeffrey A. Fine, assistant professor of political science at Clemson University. He has published articles in the Journal of Politics, Political Research Quarterly, and Political Behavior. Adam L. Warber is an associate professor of political science at Clemson University. He is the author of Executive Orders and the Modern Presidency, Presidential Studies Quarterly, June 2012, " Circumventing Adversity: Executive Orders and Divided Government", Vol. 42, No. 2, Ebsco

We also should expect presidents to prioritize and be strategic in the types of executive orders that they create to maneuver around a hostile Congress. There are a variety of reasons that can drive a president’s decision. For example, presidents can use an executive order to move the status quo of a policy issue to a position that is closer to their ideal point. By doing so, presidents are able to pressure Congress to respond, perhaps by passing a new law that represents a compromise between the preferences of the president and Congress. Forcing Congress’s hand to enact legislation might be a preferred option for the president, if he perceives Congress to be unable or unwilling to pass meaningful legislation in the ﬁrst place. While it is possible that such unilateral actions might spur Congress to pass a law to modify or reverse a president’s order, such responses by Congress are rare (Howell 2003, 113-117; Warber 2006, 119). Enacting a major policy executive order allows the president to move the equilibrium toward his preferred outcome without having to spend time lining up votes or forming coalitions with legislators. As a result, and since reversal from Congress is unlikely, presidents have a greater incentive to issue major policy orders to overcome legislative hurdles.

### AT: Int’l Don’t Believe Prez

#### 1st- Presidential commitments are the gold standard-congress isn’t believed internationally because perceived as a circus

Marvin Kalb 13, Nonresident Senior Fellow at Foreign Policy, James Clark Welling Presidential Fellow, The George Washington University Edward R. Murrow Professor of Practice (Emeritus), Kennedy School of Government, Harvard University, 2013, "The Road to War," book,pg. 7-8, www.brookings.edu/~/media/press/books/2013/theroadtowar/theroadtowar\_samplechapter.pdf

As we learned in Vietnam and in the broader Middle East, a presidential commitment could lead to war, based on miscalculation, misjudgment, or mistrust. It could also lead to reconciliation. We live in a world of uncertainty, where even the word of a president is now questioned in wider circles of critical commentary. On domestic policy, Washington often resembles a political circus detached from reason and responsibility. But on foreign policy, when an international crisis erupts and some degree of global leadership is required, the word or commitment of an American president still represents the gold standard, even if the gold does not glitter as once it did.

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# 1NR

#### Turns Terror-

**Sagan in ‘7**

[Scott, Professor, Wishes he was Kenneth Waltz, "A Nuclear Iran: Promoting Stability or Courting Disaster", Journal of International Affairs, Summer, p. asp ]

First, the stability-instability paradox--that is, the possibility that individual countries would be more aggressive with nuclear capability If Iran acquires nuclear weapons, will it behave more aggressively in the Middle East? On the one hand, we have a good insight from Professor Waltz: The United States would be more reluctant to attack Iran if it had nuclear weapons, and indeed I do believe that's why Iran is so interested. On the other hand, however, we have the possibility that various Iranians--especially those in the Islamic Revolutionary Guard Corps--may feel that it is safer for them to probe--to attack Americans in Iraq, to attack military bases in the region, to support terrorist attacks elsewhere. Therefore it is not at all clear what might be the final outcome. More probing attacks? More provocation? Indeed, this is the worry with regard to the Iran crisis today. I don't believe the Bush administration wants to attack. But I do think there are some factions in Iran who wouldn't mind a potential attack from the United States because it would increase support for the regime. It's possible that these factions in Iran will actually increase rather than decrease attacks by Iranian agents in Iraq against American forces to force our hand. The second problem--terrorist theft. The Iranians, in trying to reduce the likelihood of an attack against their nuclear development sites, are dispersing **those** sites **in the countryside.** But such measures will increase the likelihood that there won't be central control **over their nuclear program**, and increase the likelihood that, if they do develop nuclear weapons, insiders and terrorist groups could potentially seize them. Finally, the question of ambiguous control. Here we must ask: Who controls the weapons and materials? They don't yet have weapons in Iran, but they are working to get them. And it is not the professional Iranian military but the Revolutionary Guard **Corps** guarding the development sites **whose own financial units have often been those used to purchase different parts of the program. These are the same individuals running the arms supply operations to terrorist organizations that Iran supports.** To have your nuclear guardians and your terrorist supporter organizations be one and the same is a recipe for disaster.

#### Turns drone prolif- would tank our cred- if no one finds us cred won’t model our poliices

Inbar, 11/2  
Prof. Efraim Inbar, director of the Begin-Sadat Center for Strategic Studies, is a professor of political studies at Bar-Ilan University and a fellow at the Middle East Forum, "Op-Ed: Washington Must Strike Iran, Not Bargain With It" <http://www.israelnationalnews.com/Articles/Article.aspx/14050~~23.UoawzPmsiSp>  
Finally, Iran is the supreme test of American credibility in world affairs. After saying so many times that a nuclear Iran is unacceptable, allowing the radical regime of the mullahs to acquire a nuclear bomb or develop a nuclear break-out capability will be a devastating blow to American prestige.¶ ¶ Today the US is probably at its lowest ebb in the region. Friends and foes alike are bewildered by the policies of the Obama administration, seeing an extremely weak president who seems to be clueless about Middle East international politics.¶ ¶

#### Extinction

Toon, chair – Department of Atmospheric and Oceanic Sciences – Colorado University, 4/19/’7

(Owen B, 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.

#### Most probable

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, **‘9** (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

#### Iran prolif is a crisis magnifier – draws in great powers to small conflicts

Edelman, Fellow – Center of Strategic and Budgetary Assessments, ‘11

(Eric, “Edelman, Krepinevich, and Montgomery Reply,” *Foreign Affairs* Vol. 9 Iss. 2, March/April)

Ultimately, if Tehran does cross the nuclear threshold and Israel chooses to live with a nuclear-armed Iran, one of the principal objectives of U.S. policy should be convincing Israel to maintain its policy of nuclear opacity for as long as possible. The benefit of a slightly more credible Israeli deterrent would not outweigh the added difficulties the United States would confront in seeking to limit a nuclear Iran's influence, preserve regional stability, and prevent additional proliferation.

A second important issue Adamsky raises is that Iran's acquisition of nuclear weapons would increase the threat that Israel faced from Iranian proxies such as Hamas and Hezbollah, either because Tehran would provide increased assistance and encouragement to these groups or because they would become more reckless once they had a nuclear-armed patron. A premeditated attack by Iran against Israel is not the only scenario that could lead to a nuclear exchange, or even the most plausible one. Instead, a limited conflict in southern Lebanon or the Gaza Strip might spiral out of control. Iranian proxies could escalate their attacks against Israel, assuming that it would be deterred by its fear of a nuclear Iran. Israel could then defy their expectations and conduct major reprisals to demonstrate its resolve, prompting Iran to make nuclear threats in defense of its clients. The results would be unpredictable and potentially disastrous. Although debates over Iran's nuclear program often turn on the issue of Iranian "rationality," it is important to remember that there are many different paths to conflict, and the dynamics of Iranian-Israeli relations could be prone to miscalculation and escalation.

### AT: Waxman

#### Holding off congress is key – they’re hawkish and will stall diplomatic efforts

Daniel R. DePetris, Middle East researcher for Wikistrat, Inc., and a contributor to The Diplomat, “Iran Nuclear Talks: Be Firm, But Realistic,” The Diplomat, 10/16/13. http://thediplomat.com/the-editor/2013/10/16/iran-nuclear-talks-be-firm-but-realistic/

While the foreign policy establishment in Washington has long held the Islamic Republic in contempt, the U.S. Congress has proven, time and again, to be the more hawkish. Indeed, it was Congress – not the Obama administration or the UN Security Council – that wrote and passed with overwhelming bipartisanship the most punishing economic sanctions that the Islamic Republic has ever experienced. The tough stance was made abundantly clear this past September, when 76 percent of the Senate signed a letter to President Barack Obama urging him to take on the Iranian nuclear stalemate with greater urgency, putting the Iranian government on notice that the “time for diplomacy is nearing its end.” ¶ Impatience with the Iran-P5+1 diplomatic process has not abated on Capitol Hill, despite a welcome and marked shift in Iranian rhetoric towards the international community with the resounding victory of pragmatist Hassan Rouhani at last summer’s Iranian presidential election. One week before the Iran-P5+1 negotiations were set to resume, Representative Trent Franks (R-AZ), a conservative member of the House of Representatives, introduced a tough new congressional resolution on the floor that – if adopted – would provide Obama with the legislative authority to use military force on Iranian nuclear targets in the event of a stall in diplomacy. ¶ ¶ The legislation, known as the Iran Nuclear Negotiations Act, lists a range of negative behavior that the Iranians have either sponsored, endorsed or carried out since 1979, and cites the passing of numerous UN Security Council resolutions demanding that Tehran cease its uranium enrichment program. The bill takes a hardline view on the diplomatic process, outlining a number of preconditions that the Iranians would have to meet – most of which are non-starters for Tehran – before it would be appropriate for the United States to negotiate directly with Rouhani’s administration. In the bill’s own words, the act would “maximize the United States’ diplomatic influence to achieve…a negotiated settlement with the Government of Iran regarding Iran’s nuclear weapons program.” ¶ ¶ In fact, the bill would do the exact opposite, convincing Ayatollah Ali Khamenei and his security advisers that Washington is simply not interested in resolving the nuclear dispute diplomatically. That perception may not make sense from an American standpoint, but it makes perfect sense coming from a man like Khamenei, who has spent his entire tenure as Iran’s Supreme Leader protecting the Islamic Republic from the United States, which he sees as an ideological villain.¶ ¶ With so much mistrust between the United States and Iran, thinking that a nuclear agreement can be reached quickly is an exercise in fantasy. There is simply too much history among the two nations for diplomats in Washington and Tehran to trust one another’s intentions immediately or take one another at face value. ¶ ¶ Yet if there is anything that can be gleaned from Rouhani’s positive signals over the past month – speaking to the American people in numerous television interviews; writing a conciliatory op-ed in the Washington Post pressing for “constructive engagement”; taking a call from Obama on his way from the UN General Assembly meetings; repeatedly talking about transparency with the International Atomic Energy Agency – it is that the veteran politician is more than willing to risk his political capital to arrive at a mutually beneficial deal.

### Strong Obama Key

#### You’ve conceded that Obama needs his PC to prevent the sanctions from passing—that’s our Ropkof evidence

#### The standing of the executive is the crucial internal link – key to hold off hawks in congress. Vital internal to overall US nuclear leadership

LEVERETT 11 – 7 – 13 Profs of International Relations – Penn State & American University [Flynt Leverett and Hillary Mann Leverett, America’s Moment of Truth on Iran , <http://iranian.com/posts/view/post/23789>]

America’s Iran policy is at a crossroads. Washington can abandon its counterproductive insistence on Middle Eastern hegemony, negotiate a nuclear deal grounded in the Nuclear Non-Proliferation Treaty (NPT), and get serious about working with Tehran to broker a settlement to the Syrian conflict. In the process, the United States would greatly improve its ability to shape important outcomes there. Alternatively, America can continue on its present path, leading ultimately to strategic irrelevance in one of the world’s most vital regions—with negative implications for its standing in Asia as well.

U.S. policy is at this juncture because the costs of Washington’s post-Cold War drive to dominate the Middle East have risen perilously high. President Obama’s self-inflicted debacle over his plan to attack Syria after chemical weapons were used there in August showed that America can no longer credibly threaten the effective use of force to impose its preferences in the region. While Obama still insists “all options are on the table” for Iran, the reality is that, if Washington is to deal efficaciously with the nuclear issue, it will be through diplomacy.

In this context, last month’s Geneva meeting between Iran and the P5+1 brought America’s political class to a strategic and political moment of truth. Can American elites turn away from a self-damaging quest for Middle Eastern hegemony by coming to terms with an independent regional power? Or are they so enthralled with an increasingly surreal notion of America as hegemon that, to preserve U.S. “leadership,” they will pursue a course further eviscerating its strategic position?

The proposal for resolving the nuclear issue that Iran’s foreign minister, Javad Zarif, presented in Geneva seeks answers to these questions. It operationalizes the approach advocated by Hassan Rohani and other Iranian leaders for over a decade: greater transparency on Iran’s nuclear activities in return for recognizing its rights as a sovereign NPT signatory—especially to enrich uranium under international safeguards—and removal of sanctions. For years, the Bush and Obama administrations rejected this approach. Now Obama must at least consider it.

The Iranian package provides greater transparency on Tehran’s nuclear activities in two crucial respects. First, it gives greater visibility on the conduct of Iran’s nuclear program. Iran has reportedly offered to comply voluntarily for some months with the Additional Protocol (AP) to the NPT—which it has signed but not yet ratified and which authorizes more proactive and intrusive inspections—to encourage diplomatic progress. Tehran would ratify the AP—thereby committing to its permanent implementation—as part of a final deal.

Second, the package aims to validate Iran’s declarations that its enrichment infrastructure is not meant to produce weapons-grade fissile material. Iran would stop enriching at the near-20 percent level of fissile-isotope purity needed to fuel the Tehran Research Reactor and cap enrichment at levels suitable for fueling power reactors. Similarly, Iran is open to capping the number of centrifuges it would install—at least for some years—at its enrichment sites in Natanz and Fordo.

Based on conversations with Iranian officials and political figures in New York in September (during Rohani and Zarif’s visit to the UN General Assembly) and in Tehran last month, it is also possible to identify items that the Iranian proposal almost certainly does not include. Supreme Leader Ayatollah Seyed Ali Khamenei has reportedly given President Rohani and his diplomats flexibility in negotiating a settlement—but he has also directed that they not compromise Iran’s sovereignty. Thus, the Islamic Republic will not acquiesce to American (and Israeli) demands to suspend enrichment, shut its enrichment site at Fordo, stop a heavy-water reactor under construction at Arak, and ship its current enriched uranium stockpile abroad.

On one level, the Iranian package is crafted to resolve the nuclear issue based on the NPT, within a year. Iran’s nuclear rights would be respected; transparency measures would reduce the proliferation risks of its enrichment activities below what Washington tolerates elsewhere. On another level, though, the package means to test America’s willingness and capability to resolve the issue on this basis. It tests this not just for Tehran’s edification, but also for that of other P5+1 states, especially China and Russia, and of rising powers like India and South Korea.

America can fail the Iranian test in two ways. First, the Obama administration—reflecting America’s political class more broadly—may prove unwilling to acknowledge Iran’s nuclear rights in a straightforward way, insisting on terms for a deal that effectively suborn these rights and violate Iranian sovereignty.

There are powerful constituencies—e.g., the Israel lobby, neoconservative Republicans, their Democratic “fellow travelers,” and U.S.-based Iran “experts”—that oppose any deal recognizing Iran’s nuclear rights. They understand that acknowledging these rights would also mean accepting the Islamic Republic as an enduring entity representing legitimate national interests; to do so, America would have to abandon its post-Cold War pretensions to Middle Eastern hegemony.

Those pretensions have proven dangerously corrosive of America’s ability to accomplish important objectives in the Middle East, and of its global standing. Just witness the profoundly self-damaging consequences of America’s invasion and occupation of Iraq, and how badly the “global war on terror” has eviscerated the perceived legitimacy of American purposes in the Muslim world.

But, as the drama over Obama’s call for military action against Syria indicates, America’s political class remains deeply attached to imperial pretense—even as the American public turns away from it. If Washington could accept the Islamic Republic as a legitimate regional power, it could work with Tehran and others on a political solution to the Syrian conflict. Instead, Washington reiterates hubristic demands that President Bashar al-Assad step down before a political process starts, and relies on a Saudi-funded “Syrian opposition” increasingly dominated by al-Qa’ida-like extremists.

If Obama does not conclude a deal recognizing Iran’s nuclear rights, it will confirm suspicions already held by many Iranian elites—including Ayatollah Khamenei—and in Beijing and Moscow about America’s real agenda vis-à-vis the Islamic Republic. It will become undeniably clear that U.S. opposition to indigenous Iranian enrichment is not motivated by proliferation concerns, but by determination to preserve American hegemony—and Israeli military dominance—in the Middle East. If this is so, why should China, Russia, or rising Asian powers continue trying to help Washington—e.g., by accommodating U.S. demands to limit their own commercial interactions with Iran—obtain an outcome it does not actually want?

America can also fail Iran’s test if it is unable to provide comprehensive sanctions relief as part of a negotiated nuclear settlement. The Obama administration now acknowledges what we have noted for some time—that, beyond transitory executive branch initiatives, lifting or even substantially modifying U.S. sanctions to support diplomatic progress will take congressional action.

During Obama’s presidency, many U.S. sanctions initially imposed by executive order have been written into law. These bills—signed, with little heed to their long-term consequences, by Obama himself—have also greatly expanded U.S. secondary sanctions, which threaten to punish third-country entities not for anything they’ve done in America, but for perfectly lawful business they conduct in or with Iran. The bills contain conditions for removing sanctions stipulating not just the dismantling of Iran’s nuclear infrastructure, but also termination of Tehran’s ties to movements like Hizballah that Washington (foolishly) designates as terrorists and the Islamic Republic’s effective transformation into a secular liberal republic.

The Obama administration may have managed to delay passage of yet another sanctions bill for a few weeks—but Congressional Democrats no less than congressional Republicans have made publicly clear that they will not relax conditions for removing existing sanctions to help Obama conclude and implement a nuclear deal. If their obstinacy holds, why should others respect Washington’s high-handed demands for compliance with its extraterritorial (hence, illegal) sanctions against Iran?

Going into the next round of nuclear talks in Geneva on Thursday, it is unambiguously plain that Obama will have to spend enormous political capital to realign relations with Iran. America’s future standing as a great power depends significantly on his readiness to do so.

#### Obama PC is key to blocking new sanctions against Iran

Pace 11/12/13

Obama faces worry at home, abroad over Iran nuclear talks, Associated Press; Julie, p.http://www.dailynews.com/general-news/20131112/obama-faces-worry-at-home-abroad-over-iran-nuclear-talks

WASHINGTON — President Barack Obama’s hopes for a nuclear deal with Iran now depend in part on his ability to keep a lid on both hard-liners on Capitol Hill and anxious allies abroad, including Israel, the Gulf states and even France.¶ Each of the wary parties is guided in some measure by domestic political interests. But they also share concerns that Obama may want a breakthrough with Iran so badly that he would be willing to accept a deal that prematurely eases economic pressure on Iran and gives the Islamic republic space to pursue a nuclear weapon.¶ “All of us want to see diplomacy,” Sen. Bob Corker, R-Tenn., told NBC News. “But we’re also concerned about an administration that seems really ready to jump into the arms of folks and potentially deal away some of the leverage we have.”¶ “It would be imprudent to want an agreement more than the Iranians do,” Sen. Robert Menendez, D-N.J., wrote in an editorial in USA Today.¶ Indeed, there’s little question Obama desires a deal with Iran, which could give him a boost during a shaky stretch in his presidency that has included the deeply flawed rollout of his signature health care law, new revelations about U.S. government spying and falling approval ratings. Successful negotiations with Iran also could validate Obama’s long-held belief that the U.S. should be willing to talk to adversaries without preconditions.¶ Obama and his advisers reject the notion that they are naive about Iran’s intentions. And they insist the world must test whether new Iranian President Hassan Rouhani is serious about his announced desire for improved relations with the West.¶ Colin Kahl, who served as a top Pentagon Middle East official during Obama’s first term, said the very fact that the success or failure of a nuclear agreement would be so critical to Obama’s presidency ensures the administration won’t sign off on a subpar agreement with Tehran.¶ “The president sees preventing Iran from getting a nuclear weapon as not only central to vital U.S. national security interests, but also to his own legacy,” said Kahl, now a senior fellow at the Center for a New American Security. “They’re not going to accept a bad deal.”¶ Talks between Iran and six world powers — the U.S., France, Russia, China, the United Kingdom and Germany — ended over the weekend without an agreement on a preliminary deal that would have set the stage for broader talks. Diplomats said talks broke down in part because the international powers refused to formally recognize Iran’s right to enrich uranium.¶ France also expressed concerns that proposed limits on Iran’s ability to make nuclear fuel don’t go far enough. France also sounded alarms over a planned heavy water reactor that would produce greater amounts of byproduct plutonium, which can be used in nuclear weapons production. Western officials later tried to gloss over the French concerns, but their public comments raised questions about cracks in the international coalition.¶ Iran insists it is not pursuing a bomb and only wants to enrich uranium for energy and medical applications.¶ Negotiations are due to resume in Geneva on Nov. 20. In exchange for nuclear concessions from Iran, the U.S. and world powers are offering Tehran limited and reversible relief from economic sanctions that have strained its economy.¶ In the days leading up to the next round of Geneva talks, Obama is likely to confront renewed skepticism from congressional lawmakers and allies overseas.¶ Some U.S. lawmakers oppose the president’s willingness to ease sanctions on Iran, even temporarily, and instead want to layer on new economic penalties. At the Obama administration’s request, a sanctions bill in the Senate Banking Committee was put on hold, but it’s unclear how much longer lawmakers are willing to wait.¶ Obama personally placed a call last week to Sen. Mark Kirk, R-Ill., a key sanctions drafter, to ask that legislation be stopped. Vice President Joe Biden, Secretary of State John Kerry and White House chief of staff Denis McDonough have all talked with lawmakers in recent days. And the White House is dispatching Kerry to Capitol Hill on Wednesday to implore the Senate Banking Committee to pause the legislation once again.

### Link

#### Presidential war powers is controversial-causes regular fights in congress

Cohen 11

(Tom, CNN Wire News editor. “Debate over war powers re-emerges in Congress, courts” 7-16-11 http://www.cnn.com/2011/POLITICS/06/17/war.powers.libya/index.html//wyoccd)

Washington (CNN) -- An endless Washington debate over the president's power to go to war has resurfaced with the NATO-led Libya military mission, pitting the Obama administration against House Speaker John Boehner as well as anti-war liberals in clashes threatening to stretch from Congress to the courts to the golf course.¶ Boehner, R-Ohio, demanded more information from the White House this week on the U.S. role in the Libya mission, warning in a letter that President Barack Obama would be in violation of the War Powers Resolution of 1973 if he failed to get congressional authorization by Sunday, the 90th day since U.S. forces launched the campaign.¶ The War Powers Resolution gives the president 60 days to get congressional approval for sending U.S. forces to war, followed by a 30-day extension to end the hostilities. Boehner told reporters Thursday that if the White House fails to provide the requested information, Congress might seek to defund the military effort when it considers a defense appropriation measure next week.¶ "The ultimate option is the House, in fact, the Congress has the power of the purse," Boehner said. "And certainly that is an option as well."¶ In response to Boehner's letter, the White House sent Congress a 32-page report that asserted Obama didn't need congressional authorization because the U.S. forces play only a supporting role in Libya and don't engage in what the War Powers Resolution defined as hostilities.¶ "We're obviously not changing our mission," White House Press Secretary Jay Carney said Friday, later adding: "What we have said is that our role in this mission, our support role and the kind of engagement we have right now, does not meet, in our legal analysis, ... the threshold set by the War Powers Resolution for congressional action."¶ Meanwhile, a group of 10 House members led by liberal Democrat Dennis Kucinich of Ohio and Republican Walter Jones of North Carolina, has filed a federal lawsuit challenging Obama's power to commit U.S. forces to the Libya mission.¶ "We are intending through our presence and through this lawsuit to correct an imbalance which exists today, to correct a deficiency in the separation of powers, to correct ... and to firmly establish that Congress is a co-equal branch of government and that the founders made it unmistakably clear they did not intend for the war power to be placed in the hands of an executive," Kucinich said in announcing the lawsuit on Wednesday.¶ The showdown comes amid an already charged political environment, with Vice President Joe Biden leading bipartisan talks aimed at getting a deficit reduction deal that can bring congressional approval to raise the federal debt ceiling.¶ Both the War Powers issue and the deficit reduction talks are likely to come up Saturday when Obama and Biden host Boehner and Republican Gov. John Kasich of Ohio for a round of golf billed as a bonding exercise.¶ Carney said the golf outing "is meant to be an opportunity for the speaker and the president, as well as the vice president and Ohio governor, to have a conversation, to socialize in a way that so rarely happens in Washington."¶ "Obviously, I would expect they will talk about some of the very important issues that have to be dealt with by this administration and this Congress," Carney said, later adding that "it's the kind of thing the president believes is useful for the leaders in Washington to do more frequently, not the game itself, but ... to engage with each other in a non-confrontational way to sort out the business between them and the differences between them."¶ Political wrangling over war powers is common in Washington, with presidents frequently seeking to expand their freedom to commit U.S. forces and Congress battling to exert influence on the process.

#### Pushing anything drone related through congress would obliterate Obama’s PC-congress is divided at every level

Hughes 13

(Siobhan Hughes, Correspondent at DowJones Newswire. “Brennan Fight Shows GOP Divisions on Drones” 3-7-13 http://online.wsj.com/article/SB10001424127887323628804578346333053356560.html//wyoccd)

WASHINGTON—The U.S. Senate on Thursday confirmed John Brennan as head of the Central Intelligence Agency after a high-profile fight that exposed divisions within the Republican Party over the extent and limits of the use of unmanned drones to target Americans in their own country.¶ The confirmation vote, 63-34, came after days of turmoil over Mr. Brennan's nomination, mostly keyed to a broader debate about the authority of the U.S. targeted killing program to strike at American noncombatants on U.S. soil. The fight hit the public arena when Sen. Rand Paul (R., Ky.) on Wednesday launched a surprise 13-hour filibuster in order to get an Obama administration promise that the U.S. could not target unarmed American citizens on U.S. soil with drones. Tea-party Republicans rallied to his side.¶ By Thursday afternoon, a picture had emerged around the Capitol of a shifting political landscape in which once seemingly fringe viewpoints had appeared to become more mainstream within the Republican party.¶ "I could care less whether my view is minority or majority," Sen. John McCain (R., Ariz.) told reporters. "I know what's right." "We've done a disservice to Americans by making them believe that somehow they're in danger from their government—they're not," Mr. McCain said.¶ Sen. Lindsey Graham (R., S.C.) chided fellow Republicans, questioning whether their views were even truly Republican.¶ "What is it all of a sudden that this drone program has gotten every Republican so spun up?" Mr. Graham said on the Senate floor. "Not Senator Paul—he's a man to himself. He has a view that I don't think is a Republican view; I think is a legitimately held libertarian view."¶ The split among Republicans was notable because some of the longest-serving Republicans—traditionally the party of national security—are up for re-election in 2014 and facing potential challenges from tea-party candidates. Asked by a reporter whether he had any concern that his statements might put him at odds with the tea party, Mr. Graham, who is up in 2014, said "not over this." Still, with Mr. Paul generating headlines and thousands of new Twitter followers after his filibuster, Senate aides were left wondering 0 legitimate but that they were also not intended as a criticism of the Senate's own oversight authority.¶ Mr. McConnell was also careful to note that his own opposition to Mr. Brennan was due to concern that Mr. Brennan had been "a loyal, dogged defender of the administration's policies—policies with which I seriously disagree."¶ Soul searching was also apparent among Democrats. Sen. Dick Durbin (D. Ill.), the Democratic whip, expressed some of the same sentiments as Messrs. McCain and Graham, questioning whether there were scenarios in which the U.S. might need to employ drones at home to deter threats.¶ But Senate Judiciary Committee Chairman Patrick Leahy (D., Vt.) took a different tack, voting against Mr. Brennan and complaining that the Obama administration had "stonewalled " his committee's efforts to win access to secret legal memos justifying the use of drones in the targeted killing of American citizens overseas.¶ Mr. Paul got in the final word, issuing a press release that declared his filibuster had been a victory. Shortly before the vote, Attorney General Eric Holder sent a letter to Mr. Paul, in which he wrote: "Does the president have the authority to use a weaponized drone to kill an American not engaged in combat on American soil? The answer is no."¶ "This is a major victory for American civil liberties and ensures the protection of our basic Constitutional rights," said Mr. Paul. The junior senator from Kentucky also beat down the senior Arizona senator's criticisms. "He's wrong," Mr. Paul told reporters.

#### Obama would fight to retain authority, even if he supported the plan’s practice-

Gordon Silverstein, UC Berkeley Assistant Professor, December 2009, Bush, Cheney, and the Separation of Powers: A Lasting Legal Legacy?, http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1161&context=schmooze\_papers

Less than six months into the new administration, many of Obama’s staunch supporters have been surprised—even appalled—that the new president not only had failed to fully repudiate many of the Bush-Cheney legal policies, but in some instances, actually seems to be embracing and extending those policy choices (Gerstein 2009; Goldsmith 2009a, 2009b; Greenwald 2009a, 2009b; Herbert 2009; Savage 2009a). In areas ranging from the assertion of the state secrets privilege in efforts to shut down lawsuits over warrantless wiretapping (Al-Haramain v. Obama; Jewel v. NSA) and extraordinary rendition (Mohamed v. Jeppesen Dataplan) to those concerning lawsuits over detention and treatment at Guantánamo (Bostan v. Obama) and the reach of habeas corpus to Bagram Air Force Base in Afghanistan (Al Maqaleh v. Gates), as well as the continuing use of signing statements, the new Obama administration’s policies in a number of areas that were of intense interest during the campaign certainly do appear less dramatically different than one might have expected. Does this suggest that Obama actually will salvage and enhance the Bush-Cheney legal legacy? Early evidence suggests the answer is no. There is a critical difference between policy and the legal foundation on which that policy is constructed. The policies may be quite similar, at least in the first few months of the new administration, but the legal legacy will turn on the underlying legal arguments, the legal foundation on which these policies are built. Here we find a dramatic difference between Obama and Bush. Both are clearly interested in maintaining strong executive power, but whereas Bush built his claims on broad constitutional arguments, insisting that the executive could act largely unhampered by the other branches of government, the Obama administration has made clear that its claims to power are built on statutes passed by Congress, along with interpretations and applications of existing judicial doctrines. It may be the case, as one of the Bush administration’s leading Office of Legal Counsel attorneys argued, that far from reversing Bush-era policies, the new administration “has copied most of the Bush program, has expanded some of it, and has narrowed only a bit” (Goldsmith 2009a). But what is profoundly different are the constitutional and legal default foundations on which these policies, and the assertions of executive power to enforce them, are built. Obama, like virtually every chief executive in American History, seems committed to building and holding executive power. But unlike Bush, Obama is developing a far more traditional approach to this task, building his claims not on constitutional assertions of inherent power, but rather interpreting and applying existing statutes and judicial doctrines or, where needed, seeking fresh and expansive legislative support for his claims.

### UQ

#### Nuclear deal with Iran coming. Obama is holding off new sanctions from congress that would torpedo the deal – its all about politics.

CBS NEWS 11 – 13 – 13 Obama administration seeks time from Congress for Iran diplomacy, <http://www.cbsnews.com/8301-250_162-57612230/obama-administration-seeks-time-from-congress-for-iran-diplomacy/>

The Obama administration is pleading with Congress to allow more time for diplomacy with Iran, but faces sharp resistance from Republican and Democratic lawmakers determined to further squeeze the Iranian economy and wary of yielding any ground in nuclear negotiations. Back from a week of nuclear talks in Geneva and tense consultations with nervous Middle East allies, Secretary of State John Kerry arrived Wednesday on Capitol Hill to join Vice President Joe Biden in presenting the administration's case to their ex-colleagues in the Senate on Wednesday and ask them to hold off on a package of new, tougher Iran sanctions under consideration. Kerry told reporters as he arrived for the briefing that new sanctions "could be viewed as bad faith by the people we are negotiating with. It could destroy the ability to be able to get an agreement. And it could actually wind up setting us back in dialogue that has taken 30 years to be able to achieve." Still, Kerry added, "nothing is agreed until everything is agreed here." "The fact is, you know, we didn't put sanctions in place for the sake of sanctions; we did it to be able to negotiate, and to negotiate a final agreement," he said. "What we have negotiated, we believe, is a very strong protocol which will restrict Iran's ability to be able to grow its program." A House committee, meanwhile, held a hearing to vent its frustration with Kerry and an Obama administration they believe should adopt a far tougher line with Tehran. "The Iranian regime hasn't paused its nuclear program," said Rep. Ed Royce, a Republican and the House Foreign Affairs Committee chairman. "Why should we pause our sanctions efforts as the administration is pressuring Congress to do?" President Obama's disagreement with many if not most members of Congress concerns tactics, not substance: Each wants to stop Iran from reaching the capacity to produce nuclear weapons, and even hard-line hawks say they'd prefer diplomacy to U.S. military intervention. Almost everyone recognizes that Washington and its partners will have to offer some relief from the punitive measures that have crippled Iran's economy in exchange for concrete Iranian actions to roll back and dismantle elements of the nuclear program. But the road map for achieving what has been a central U.S. foreign policy goal for more than a decade is hotly politicized, with fierce debate over the parameters and sequencing of any deal. The Obama administration has offered Iran an initial opportunity to recoup some of the billions of dollars in frozen overseas assets if it begins the process, while insisting that the most severe restrictions would remain in place until Tehran conclusively eliminates fears that it is trying to assemble an atomic arsenal. Some legislators worry Obama is moving too quickly. Iran maintains that its uranium enrichment is for energy production and medical research, not for any covert military objective. But until the recent election of President Hassan Rouhani, it refused to compromise in talks with world powers. Responding to Rouhani's promise of flexibility, Obama has staked significant international credibility on securing a diplomatic agreement. His telephone chat with Rouhani in September was the first direct conversation between U.S. and Iranian leaders in more than three decades. The unprecedented outreach has angered U.S. allies such as Israel and Saudi Arabia. And lawmakers are deeply skeptical. "This is a decision to support diplomacy and a possible peaceful resolution to this issue," White House press secretary Jay Carney told reporters Tuesday. "The American people justifiably and understandably prefer a peaceful solution that prevents Iran from obtaining a nuclear weapon, and this agreement, if it's achieved, has the potential to do that. The American people do not want a march to war." The administration sees itself on the cusp of a historic breakthrough, so much so that Obama hastily dispatched Kerry to Switzerland last week for the highest-level nuclear negotiations to date. The talks broke down as Iran demanded formal recognition of what it says is its right to enrich uranium for peaceful purposes, and as France sought stricter limits on Iran's ability to make nuclear fuel and on its heavy water reactor to produce plutonium, according to diplomats. Still, officials said significant progress was made. The U.S., Britain, China, France, Germany, Iran and Russia will send top nuclear negotiators back to Geneva next week to see whether they can push the ball forward. And on Wednesday, Obama spoke by telephone with French President Francois Hollande. The two countries "are in full agreement" on Iran, the White House said in a statement. However, the administration is worried Congress could make an agreement more difficult. Kerry and top U.S. nuclear negotiator Wendy Sherman hope to persuade members of the Senate Banking Committee in their meeting Wednesday to hold off on additional punitive measures on the Iranian economy. After, Biden and the Treasury Department's sanctions chief, David Cohen, will join them for a separate briefing with Senate Democratic leaders.

#### Deal will happen – delay post Geneva is good

MALONEY 11 – 13 – 13 senior fellow at the Brookings Institution's Saban Center for Middle East Policy. [Suzanne Maloney, INSIGHT: US, Iran Find Nuclear Breakthrough Hard to Achieve, http://middleeastvoices.voanews.com/2013/11/insight-us-iran-find-nuclear-breakthrough-hard-to-achieve-26834/]

In the lead-up to last week’s negotiations on the Iranian nuclear issue, all signs seemed to herald the possibility of a historic breakthrough. Officials in both Washington and Tehran were careful to try to suppress irrational exuberance, but in private briefings and official media statements, they could not help but convey an air of anticipation. After all, the talks were building upon a suddenly conducive context ushered in by the June election of a moderate Iranian president, Hassan Rouhani, who has made it his mission to resolve the standoff and halt the deterioration of his country’s economy and its standing in the world. Since his election, and particularly since his September visit to New York, when he exchanged unprecedented telephone greetings with U.S. President Barack Obama, the long-deadlocked negotiating process on the nuclear issue has taken on a feverish pace. An opening round last month in Geneva produced hope of steady progress, with technical talks and new Iranian cooperation with the International Atomic Energy Agency. And the start to last week’s talks was serious enough to trigger travel by six foreign ministers - including U.S. Secretary of State John Kerry - who interrupted their agendas in order to hurry to Geneva to join Iran’s foreign minister and the European Union foreign policy chief in leading the talks on Friday and Saturday. It seemed all that was left to do was to break out the celebratory champagne - non-alcoholic, of course, in deference to the Iranian theocratic sensitivities - and set up the podium for the signing ceremony. And then, just as suddenly, expectations deflated even more rapidly than they had risen, with the furious release of rumor and recriminations shared via Twitter by the pack of reporters and commentators jostling impatiently in a Geneva hotel lobby. When the negotiations finally wound down in the early hours of a Swiss Sunday morning, the dignitaries emerged empty-handed. In the end, they came, they talked (and talked some more), but they could not conquer more than a dozen years of distrust that surrounds the issue and the decades of animosity that infects the U.S.-Iranian dynamic. The good news The failure should be kept in perspective. After all, the latest Geneva round still represents the most serious, sustained dialogue between leading American and Iranian officials since the revolution. And while surely the six foreign ministers who rushed to Geneva would have preferred a photo-op finish complete with a signing ceremony, the engagement of all these principals in the diplomatic grunt work of trying to hammer out mutually acceptable terms should have a salutary impact on their state’s investment in an eventual outcome. Despite the doom-sayers, diplomacy will go on. The incentives that all parties see for achieving a negotiated agreement remain just as powerful as ever, and the disincentives surrounding any possible alternative course continue to loom large even for skeptics of the process. “The passing of time will contract political space and this in turn may erode whatever combination of political capital and courage both sides were willing to invest in this deal.” – Suzanne Maloney, Brookings Saban Center The time-out may be just what the embryonic process needs - a chance to buy time and space to work through the continuing contentious issues. The controversy among some of America’s allies over the terms proposed in the talks will help sell the deal within Iran, to the extent that it needs selling. And a protracted germination is a far more viable path to a sustainable solution than an agreement that is rushed to conclusion amidst a fragmenting political coalition.

#### Iran will compromise – Khamenei speech embolden moderates and sidelines hardliners

William Maclean and Marcus George, “Hailing 'flexibility', Iran leader commends new nuclear gambit,” Reuters, 9/18/2013

(Reuters) - Talk by Iran's Supreme Leader of "flexibility" days before his government's debut at the United Nations General Assembly in New York suggests a new willingness at the highest level to explore a compromise solution to Tehran's nuclear row with the West.¶ Western governments are intrigued, but wary.¶ It is unclear how much bargaining room Ayatollah Ali Khamenei, an unyielding promoter of Iran's nuclear program, would allow his negotiators, whether in secret talks with Washington or in multilateral discussions with major powers.¶ But the timing of his remarks, days before his new president and foreign minister meet Western officials on the sidelines of the annual U.N. General Assembly, sends a message that the West should expect, and reciprocate, a new desire to clinch a deal.¶ His comments, to an audience of the Revolutionary Guards, were also aimed internally, signaling to powerful security hardliners at home that they should not seek to torpedo any forthcoming attempt at negotiations, diplomats and analysts say.¶ Khamenei was quoted by ISNA news agency as saying: "I agree with what I years ago called heroic flexibility, because this is sometimes a very good and necessary move but with sticking to a basic condition."¶ "Sometimes a wrestler shows flexibility for technical reasons but he doesn't forget who his opponent is and what his real goal is."¶ HARDLINE OPPONENTS¶ To one Iran expert, Baqer Moin, the speech was exceptional. It "opens a new chapter in Iranian internal and external relations and may prove to be as important as Ayatollah Khomeini's acceptance of the ceasefire with Iraq in 1988."¶ UK-based writer Moin said Khamenei wanted to create political space domestically for new President Hassan Rouhani, elected in August, to solve the dispute and end sanctions.¶ "Rouhani can now negotiate with the U.S. without worrying that he might be undermined by his hardline opponents," he said.¶ Mehran Kamrava, an Iran expert at Georgetown University in Doha, said Tehran perceived a window of opportunity for meaningful negotiations.¶ His remarks were a signal to other actors in the political system not to undermine Rouhani's efforts, Kamrava said. "This is one of those signals that, whatever Rouhani's engaging in, is done with the support and blessing of the highest levels of the political system."¶ Initial reaction from Western officials was cautious.¶ Ten years of talks between Tehran and world powers on Iran's nuclear activities, eight of them during the term of former hardline president Mahmoud Ahmadinejad, ran continually aground, bereft of mutual confidence and dogged by historical suspicions.¶ The United States and its allies believe Iran is seeking a nuclear weapons capability, and have imposed sanctions aimed at stopping it. Iran denies it wants a bomb and says its nuclear program has peaceful aims.¶ "All the signs of change in direction need to be grasped, but what counts are acts. We are not there yet and need to be attentive," said a French diplomatic source.¶ A CHANGE IN TACTICS ONLY?¶ A Tehran-based diplomat said there had been a significant change of mood in the government but the real question was whether Rouhani would bring any new initiative to New York.¶ "Khamenei's words indicate that Iran may have a bit of space to compromise but it's very unclear how much that will be. It's unclear whether this is a change in negotiating tactics or preparing for Iran to compromise," the diplomat said.¶ The Western message that Iran's more conciliatory language needs to be backed up with concrete action was underlined by the United States, France, Britain and others at this week's annual gathering of the International Atomic Energy Agency in Vienna.¶ Speaking to reporters on Monday after the head of Iran's Atomic Energy Organization, Ali Akbar Salehi, said he saw an "opening" in the nuclear dispute, U.S. Energy Secretary Ernest Moniz, said: "The proof will be in the pudding … The words have to be followed by concrete action."¶ Rouhani and Foreign Minister Javad Zarif do not have carte blanche to cut a deal -- any agreement would have to be approved by Khamenei -- and in any case they must first settle the arrangements under which any new talks would happen.¶ But diplomats and Iran watchers said that, after the often fractious Ahmadinejad years, the new tone was refreshing, and that was important for encouraging discussion and communication.¶ OPEN TO DIRECT TALKS¶ The United States and Iran cut diplomatic relations in 1980, after students and Islamic militants stormed the U.S. Embassy in Tehran and took American diplomats hostage.¶ But since the election of Rouhani, a centrist cleric who defeated more conservative candidates, in June, officials from both countries have made increasing hints that they are open to direct talks to seek an end to the decade-long nuclear dispute.¶ Peter Jenkins, UK representative to the IAEA from 2001-06, now a partner in a negotiation consultancy, The Ambassador Partnership, said Khamanei's remarks showed Rouhani and Zarif had "his blessing to do what's needed to get an agreement".¶ Jenkins described Zarif as "one of the most skilful diplomats of his generation and someone to whom the need for flexibility in negotiation is a given".¶ Most of the action in New York would be talks about talks, Jenkins said, perhaps setting up secret talks between Iran and the United States. "Both parties understand that it's the pair of them that most need to agree on the nuclear question."

#### Obama has leverage to hold off Iran sanctions now – he is making the case.

LANDLER and SANGER, NYT, 11-14-13

(Mark and David, “Obama Calls for Patience in Iran Talks,”http://www.nytimes.com/2013/11/15/us/politics/obama-iran.html?pagewanted=print, accessed 11-14-13, CMM)

President Obama made a vigorous appeal to Congress on Thursday to give breathing space to his efforts to forge a nuclear deal with Iran, and the prospects for an interim agreement may have improved with the release of a report by international inspectors who said that for the first time in years, they saw evidence that the Iranians have put the brakes on their nuclear expansion. The inspectors, from the International Atomic Energy Agency, said that very few new advanced centrifuges had been installed since President Hassan Rouhani of Iran took office in June, promising a new start with the West, and that little significant progress has been made on the construction of a new nuclear reactor, which became a point of contention in negotiations in Geneva last week. The slowdown, according to diplomats familiar with the Iranian work, was clearly political, not driven by technical problems. But it was also easily reversible, suggesting that Iran was waiting to see what kind of relief from sanctions it could obtain from the West in the negotiations. The report was immediately seized on by advocates and critics of an agreement that was almost signed in Geneva. Administration officials said Iran’s restraint was the latest in a series of signals by Mr. Rouhani that he was an agent of change, and that it was an answer to skeptics who have said the Iranian leader was all talk and no action. But critics in Congress and overseas dismissed the report, saying that Iran had not removed any centrifuges and continued to enrich uranium at a steady rate. Prime Minister Benjamin Netanyahu of Israel, one of the most vocal critics of a deal, said the only reason Iran had not expanded its enrichment capability was that “they don’t need to.” For Mr. Obama, who has been fending off accusations that the American negotiators were giving away too much to Iran in return for concessions that critics said would scarcely slow its march to nuclear capability, the findings could fortify his argument that the Senate should hold off on new sanctions to avoid derailing the talks. “Let’s test how willing they are to actually resolve this diplomatically and peacefully,” Mr. Obama said at a White House news conference. “We will have lost nothing if at the end of the day it turns out that they are not prepared to provide the international community the hard proof and assurances necessary for us to know that they’re not pursuing a nuclear weapon.” The confidential report was released to the nuclear agency’s member states just minutes before Mr. Obama spoke, and he did not mention the findings. But the president made a strong case for diplomacy, trying to quell an effort in Congress to ramp up sanctions against Iran rather than modestly ease them, in return for a six-month halt in the progress of the nuclear program. Negotiators plan to meet again next week in Geneva, after failing to reach an interim deal because of what Secretary of State John Kerry has described as a difference in only four or five phrases. The prospect that a deal could be reached soon has provoked a storm of protest from Israel and criticism from Republicans and some Democrats.

#### The Senate is deferring to Obama now

EVERETT and BRESNAHAN, Politico, 11-12-13

(Burgess and John, “Senate split on new Iran sanctions,” http://www.politico.com/story/2013/11/senate-split-new-iran-sanctions-99765.html, accessed 11-14-13, CMM)

Kerry and other Western leaders were unable to finalize an agreement on easing of some sanctions in return for scaling back Iran’s nuclear program, though Kerry still hopes to strike such a deal. That diplomatic limbo could make it difficult to move a defense authorization bill by Thanksgiving as Senate Majority Leader Harry Reid (D-Nev.) hopes to do, given administration fears that Republicans will offer a slew of amendments on Iran that could make Kerry’s job more difficult. Banking Committee Chairman Tim Johnson (D-S.D.) said his panel will not draft new economic penalties toward Iran until the Senate has fully digested that briefing. Even then, Johnson said he will defer to his leadership and the White House to give him the green light. “I’m waiting for the president and the leader to discuss what they want to do next,” Johnson said in a brief interview Tuesday evening. Two members of Democratic leadership, Sens. Patty Murray of Washington and Chuck Schumer of New York, both said they remain undecided on pursuing new sanctions and will continue to talk to top administration brass. “I’ve had long conversations with various administration people,” Schumer told reporters. “I will talk to you all later about this.” The Banking Committee’s top Republican, Mike Crapo of Idaho, said he has long wanted to pursue a more stern policy on Iran, but will keep an open mind Wednesday. “I have been in that position so far and that remains my position. However, I’m willing to let Secretary Kerry and Secretary Lew make their case,” Crapo said. Not everyone is so patient. Sen. Lindsey Graham (R-S.C.), an Iran hawk, says Republicans want to move ahead with a new round of sanctions now, despite the White House objections. “On our side, there’s an overwhelming belief that a third round of sanctions is necessary. Democrats are probably split on that,” Graham said. “I understand what [the White House is] telling us about destroying a chance for a peaceful outcome here by new sanctions. But I really think if the sanctions were crafted in the right way, where if the Iranians did things we didn’t want them to do, that would be more helpful than harmful.” Armed Services Committee Chairman Carl Levin (D-Mich.) strongly disagreed. “We ought see what these negotiations produce. That’s what I think ought to do consider taking action,” Levin said. He noted that Geneva-based P5+1 — the United States, Russia, China, the United Kingdom, France, and Germany — talks with Iran are still in the earliest phases and the Obama administration should be given more time to move forward. “I think we ought to not interfere with the negotiations.” It’s the second time in two weeks that the administration has sent its top guns to brief senators on Iran, including a visit from Biden on Halloween.