## aff answers

### 2ac – exec flex good

#### Executive flexibility solves terror AND prolif – extinction – Congress is structurally incapable at crisis response

John Yoo 17, John Yoo is the Emanuel S. Heller Professor of Law at the University of California at Berkeley, a nonresident senior fellow at the American Enterprise Institute, and a visiting fellow at the Hoover Institution at Stanford University, 4-13-2017, "Trump’s Syria Strike Was Constitutional," National Review, <https://www.nationalreview.com/2017/04/trump-syria-strike-constitutional-presidents-have-broad-war-powers/>, \*added [undermine], nihara

The Framers realized the obvious. Foreign affairs are unpredictable and involve the highest of stakes, making them unsuitable to regulation by preexisting legislation. Instead, they can demand swift, decisive action — sometimes under pressured or even emergency circumstances — that is best carried out by a branch of government that does not suffer from multiple vetoes or that is delayed by disagreements. Congress is too large and unwieldy to take the swift and decisive action required in wartime. Our Framers replaced the Articles of Confederation, which had failed in the management of foreign relations because they had no single executive, with the Constitution’s single president for precisely this reason. Even when it has access to the same intelligence as the executive branch, Congress’s loose, decentralized structure would [undermine] ~~paralyze~~ American policy while foreign threats grew.

Congress has no political incentive to mount and see through its own wartime policy. Members of Congress, who are interested in keeping their seats at the next election, do not want to take stands on controversial issues where the future is uncertain. They will avoid like the plague any vote that will anger large segments of the electorate. They prefer that the president take the political risks and be held accountable for failure.

Congress is too large and unwieldy to take the swift and decisive action required in wartime.

Congress’s track record when it has opposed presidential leadership has not been a happy one. Perhaps the most telling example was the Senate’s rejection of the Treaty of Versailles at the end of World War I. Congress’s isolationist urge kept the United States out of Europe at a time when democracies fell and Fascism grew in their place. Even as Europe and Asia plunged into war, Congress passed the Neutrality Acts designed to keep the United States out of the conflict. President Franklin Roosevelt violated those laws to help the Allies and draw the nation into war against the Axis. While pro-Congress critics worry about a president’s foreign adventurism, the real threat to our national security could come from inaction and isolationism.

Many point to the Vietnam War as an example of the faults of the “imperial presidency.” Vietnam, however, could not have continued without the consistent support of Congress in raising a large military and paying for hostilities. And Vietnam ushered in a period of congressional dominance that witnessed American setbacks in the Cold War and the passage of the ineffectual War Powers Resolution. Congress passed the resolution in 1973 over President Richard Nixon’s veto, and no president has ever accepted the constitutionality of its 60-day limit on the use of troops abroad. No federal court has ever upheld the resolution. Even Congress has never enforced it.

Despite the record of practice and the Constitution’s institutional design, critics nevertheless argue that we should radically remake the American way of war. They typically base their claim on Congress’s power to “declare war.” But these observers read the 18th-century constitutional text through a modern lens by interpreting “declare war” to mean “start war.” When the Constitution was written, however, a declaration of war served diplomatic notice about a change in legal relations between nations. It had little to do with launching hostilities. In the century before the Constitution, for example, Great Britain — where the Framers got the idea of declaring war — fought numerous major conflicts but declared war only once beforehand.

Our Constitution sets out specific procedures for passing laws, appointing officers, and making treaties. There are none for waging war because the Framers expected the president and Congress to struggle over war through the national political process. In fact, other parts of the Constitution, properly read, support this reading. Article I, Section 10, for example, declares that the states shall not “engage” in war “without the consent of Congress” unless “actually invaded, or in such imminent danger as will not admit of delay.” This provision creates exactly the limits desired by anti-war critics, complete with an exception for self-defense. If the Framers had wanted to require congressional permission before the president could wage war, they simply could have repeated this provision and applied it to the executive.

Presidents, of course, do not have complete freedom to take the nation to war. Congress has ample powers to control presidential policy, if it wants to. Only Congress can raise the military, which gives it the power to block, delay, or modify war plans. Before 1945, the United States had such a small peacetime military that presidents who started a war would have to go hat in hand to Congress to build an army to fight it. Since World War II, Congress has authorized and funded our large standing military, one primarily designed to conduct offensive, not defensive, operations (as we learned all too tragically on 9/11) and to swiftly project power worldwide. If Congress wanted to discourage presidential initiative in war, it could build a smaller, less offense-minded military.

Congress’s check on the presidency lies not just in the long-term raising of the military. It can also block any immediate armed conflict through the power of the purse. If Congress feels it has been misled in authorizing war, or it disagrees with the president’s decisions, all it need do is cut off funds, either all at once or gradually. It can reduce the size of the military, shrink or eliminate units, or freeze supplies. Using the power of the purse does not even require affirmative congressional action. Congress can just sit on its hands and refuse to pass a law funding the latest presidential adventure, and the war will end quickly. Even the Kosovo war, which lasted little more than two months and involved no ground troops, required special funding legislation.

The Framers expected Congress’s power of the purse to serve as the primary check on presidential war. During the 1788 Virginia ratifying convention. Patrick Henry attacked the Constitution for failing to limit executive militarism. James Madison responded: “The sword is in the hands of the British king; the purse is in the hands of the Parliament. It is so in America, as far as any analogy can exist.” Congress ended America’s involvement in Vietnam by cutting off all funds for the war.

Our Constitution has succeeded because it favors swift presidential action in war, later checked by Congress’s funding power. If a president continues to wage war without congressional authorization, as in Libya, Kosovo, or Korea, it is only because Congress has chosen not to exercise its easy check. We should not confuse a desire to escape political responsibility for a defect in the Constitution.

A radical change in the system for making war might appease critics of presidential power. But it could also seriously threaten American national security. In order to forestall another 9/11 attack, or take advantage of a window of opportunity to strike terrorists or rogue nations, the executive branch needs flexibility. It is not hard to think of situations where congressional consent cannot be obtained in time to act. Time for congressional deliberation, which can lead to passivity and isolation and not smarter decisions, will come at the price of speed and secrecy.

The Constitution creates a presidency that can respond forcefully to prevent serious threats to our national security. Presidents can take the initiative, and Congress can use its funding power to check presidents. Instead of demanding a legalistic process to begin war, the Framers left war to politics. As we confront the new challenges of terrorism, rogue nations, and WMD proliferation, now is not the time to introduce sweeping, untested changes in the way we make war.

#### Ukraine proves Congressional re-assertion in foreign affairs is occurring now – BUT, is only escalatory – AND, runs counter to executive restraint

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PRESSURE POLITICS — Something quite striking has happened in Washington since Russia invaded Ukraine. Congress — which typically takes a back seat on foreign policy matters — has repeatedly driven the White House beyond its comfort zone with bipartisan demands for more assertive policies.

It started with calls for tougher sanctions, then escalated to an appeal for a larger military and humanitarian assistance package. Members of both parties then clamored for a U.S. ban on Russian oil, which the White House saw as politically risky given the effect on gas prices at home. And they insisted that the U.S. end permanent normal trade relations with Russia.

The tactics have worked. And this week, lawmakers will be at it again — this time nudging the Biden administration to go further than it wants in facilitating the transfer of fighter jets from Poland to Ukraine.

The White House POV: The Biden White House — worried about ratcheting up tensions with the Kremlin — has rejected Poland’s offer to move their Soviet-style planes. Indeed, Russia over the weekend warned that it would view any such delivery as an escalation, and signaled that any such convoys (even American-delivered ones) would be considered “legitimate targets.”

Alex Ward, who anchors POLITICO’s National Security Daily newsletter, noted Sunday that the administration has gone out of its way to avoid any moves that could trigger further conflict with Russia. It has even taken steps back to ease tensions, such as canceling special operations training and delaying missile tests. Our colleagues also scooped Sunday that a “Pentagon push to send more trainers to Ukraine was scrapped in December amid White House fears of provoking Russia.”

The supporters’ POV: Supporters of approving a transfer of fighter jets argue that Russia has drawn multiple lines that the West has already crossed — and that VLADIMIR PUTIN is the aggressor here. Sen. ROB PORTMAN (R-Ohio), speaking from the Ukraine-Poland border, noted on CNN’s “State of the Union” on Sunday that Putin had also called sanctions an “act of war” and warned the U.S. against providing stringers and helicopters.

“What we’ve heard directly from the Ukrainians is they want them badly,” Portman said of the planes. “They want the ability to have better control over the skies in order to give them a fighting chance. I don’t understand why we’re not doing it.”

The build-up: While Republicans led the charge calling for the transfer last week, over the weekend we saw some Hill Democrats join the fray. Ex-military Democratic Reps. JASON CROW (Colo.), JARED GOLDEN (Maine) and CHRISSY HOULAHAN (Pa.) and a couple of others signed a bipartisan letter backing the move, as we first reported in Playbook PM on Friday. By Sunday, the 58-member-strong bipartisan Problem Solvers Caucus — half Democrats — had joined them.

“With Russia’s alarming disregard for Ukrainian civilian casualties, the U.S. must … help supply more comprehensive air defense systems to defend Ukraine and its people,” the letter read.

Meanwhile, Sen. AMY KLOBUCHAR (D-Minn.) — who doesn’t break often with President JOE BIDEN — said the U.S. shouldn’t rule out making the transfer: “I have made clear to them — I spoke to the president himself about 10 days ago about this — I’d like to see the planes over there,” she said on “State of the Union,” floating the idea of other types of air defense assistance that could also work. “I still don’t rule out having planes at some point.”

So is it just a matter of time before the Biden White House flips and moves on the Poland transfer? Perhaps. What is clear is that Congress has had success with this type of vocal, bipartisan push before. WaPo’s Amy Wang has more on the bipartisan movement on the plane issue. (Read on for more on Ukraine below.)

#### Executive flexibility is inevitable – even if they’re right – Congress will NOT re-engage due to political incentives – AND, gridlock enables executive power grabs – NO spillover

Daniel W. Drezner 21, Daniel W. Drezner is a professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University, 8-30-2021, " Why Congress will not reengage on foreign policy," Washington Post, <https://www.washingtonpost.com/outlook/2021/08/30/why-congress-will-not-reengage-foreign-policy/>, nihara

As more information comes out about the proximate causes of the Taliban’s swift takeover of Afghanistan, AEI’s Kori Schake has a good op-ed in the New York Times reminding everyone (including Trump administration officials hoping for national amnesia) about the February 2020 deal that the Trump administration negotiated with the Taliban that set the table for the horrible meal we are all digesting now.

That agreement led to “the release of 5,000 combat and political Taliban prisoners” and bypassed the Afghan government entirely. As Schake writes, “For someone who prided himself on his abilities as a dealmaker and displayed an ‘I alone can fix it’ arrogance, the agreement he made with the Taliban is one of the most disgraceful diplomatic bargains on record.”

The deeper point to Schake’s op-ed, however, is that President Donald Trump’s debacle is simply the most recent and most prominent example of a U.S. president believing that personal diplomacy can solve everything. Instead, “presidents should return to the practice of persuading their fellow Americans of the merits of agreements with foreign powers.”

If they do not, Schake advises Congress to reclaim its powers over foreign affairs:

Congress can begin by reasserting its role in diplomacy and requiring specific authorizations for the use of military force rather than continuing to acquiesce to claims that existing executive authorizations can be endlessly expanded. It should refuse the shifting of funds previously authorized and appropriated for other purposes (Mr. Trump made such shifts to construct the border wall). It should reject foreign policy changes enacted by executive order rather than congressional approval, and it should force the Supreme Court to clarify the extent of the president’s war powers.

Agreements with foreign powers, whether states, international institutions or organizations like the Taliban, should be submitted to Congress for a vote. The best way to prevent catastrophic foreign policy mistakes is to require the 535 representatives of the American people to put their jobs on the line, become informed, and support, reject or modify a president’s program. Congress tried to slow or block Mr. Trump’s planned drawdown of U.S. forces. Members who supported the Taliban deal should be explaining why they thought the outcome would be different than the tragedy unfolding in Afghanistan now. Apathy and unaccountability are the real enemies of good foreign policy. Presidents get around oversight by offering unilateral policy actions or claiming international agreements aren’t formal treaties. Congress shouldn’t let a president from either party get away with that.

As an analyst, I agree wholeheartedly with Schake’s diagnosis of the problem. One of the running themes in my own long-form writing on American foreign policy — see here, here, here, here and here — has been that a variety of factors has led to everyone treating the president as the last adult in the room. This is a real problem when Americans elect a petulant child to occupy the Oval Office.

Nor is this argument original to me. It begins with Arthur Schlesinger’s “The Imperial Presidency,” continues with Andrew Rudalevige’s “The New Imperial Presidency,” proceeds with Linda Fowler’s “Watchdogs on the Hill” and so forth.

The diagnosis makes sense — but Schake’s proposed remedy does not, for two reasons. First, most members of Congress have little incentive to act responsibly on foreign affairs. As Helen Milner and Dustin Tingley note in “Sailing the Water’s Edge,” what motivates Congress is the distribution of concentrated costs and benefits. Foreign affairs, which is mostly about advancing the national interest, has very little of this outside of the defense budget.

As a result, most individual members of Congress do not care about foreign policy, except as an exercise in partisanship. Neither do their constituents. The result is that when Congress does get involved in foreign affairs, it is mostly through displays of self-sabotaging symbolism, such as passing JASTA or impulsively flying to Kabul in the middle of a rescue mission or, as I noted in Foreign Affairs, imposing economic sanctions so that they “can tell their constituents that they are doing something about a problem even if that something isn’t working.”

Now it could be argued that if Schake’s proposed reforms were enacted, the shared sense of responsibility would focus the mind of Congress, leaving lawmakers no choice but to act responsibly. Alas, that is highly unlikely, for two reasons. First, even if Congress was blamed collectively for inaction in foreign affairs, individual members would not be punished by their constituents. Ordinary Americans barely consider foreign policy when voting for the president, much less their House representative.

Second, when a foreign policy crisis does emerge, attention naturally gravitates toward 1600 Pennsylvania Avenue. Congress has 535 individual voices; the president is a singular voice. During a crisis, the president will always have the incentive to act using executive power in the face of congressional gridlock. Furthermore, that very gridlock will enable the president to get away with power grabs more often than not. So long as a president’s party provides backup, there is little that Congress can do as an institution to constrain executive power.

This is normally the point in the column when the hard-working staff here at Spoiler Alerts offers a better solution. This is a problem, however, that cannot necessarily be fixed given the current political incentives. The best I can offer is to try to further institutionalize consultations with congressional leadership in a manner akin to reading in the Gang of Eight on intelligence matters.

I grant that this is weak beer. The problem is structural. Presidents care about foreign policy because of the national interest and also because it’s the arena where presidents have the most latitude. Members of Congress do not care most of the time. And the reason they do not care is that their constituents really do not care. Until something changes in that last sentence, the status quo will persist.

#### AND, NO impact – Presidents pursue Congressional support to shield political criticisms – unilateral action only occurs for isolated, non-escalatory instances

Robert Farley 21, Dr. Robert Farley is a Senior Lecturer at the Patterson School at the University of Kentucky. Dr. Farley is the author of Grounded: The Case for Abolishing the United States Air Force (University Press of Kentucky, 2014), the Battleship Book (Wildside, 2016), and Patents for Power: Intellectual Property Law and the Diffusion of Military Technology (University of Chicago, 2020), November 23, 2021, “America’s Imperial Presidency Problem: Fact Or Fiction?” 19FortyFive, <https://www.19fortyfive.com/2021/11/americas-imperial-presidency-problem-fact-of-fiction/>, nihara

What does it mean to say that the United States suffers from an “Imperial Presidency Problem?” For at least the last fifty years, it has defined a line of critique of the Presidential power to make war without the consent of Congress.

The vast expansion of the standing military establishment in World War II meant that post-war Presidents had the means to wage war at the times and places of their choosing. The development of nuclear weapons meant that Presidents needed the authority to make decisions of war and peace immediately, without the advice and consent of Congress. To be sure, there is a long history of Presidents waging wars without Congressional intervention, but the advent of the Cold War raised the stakes immensely. In 1950, President Truman’s decision to intervene in the civil war on the Korean Peninsula seemed a harbinger of a vast expansion of Presidential power over war and peace.

The problem was seen as so serious at near the end of the Vietnam War that Congress passed the War Powers Resolution in 1973 in an effort to limit Presidential prerogative with respect to warmaking. Congressional critics of Presidential warmaking power have continued their efforts to restrain imperial Presidents down to the present day; a bipartisan coalition of lawmakers attempted to constrain President Trump’s support for the Saudi war in Yemen, albeit with little success. More recently, Senators Bernie Sanders, Mike Lee, and Chris Murphy proposed a sweeping overhaul of the national security prerogatives of the President that would significantly expand upon and clarify the War Powers Resolution.

But what if the Imperial Presidency is, at least partially, a myth?

Patrick Hulme, a Ph.D. candidate in political science at the University of California at San Diego, has work circulating about the importance of the precedent of the Korean War in Presidential thinking. As Hulme argues, “Truman’s successors took a specific lesson away from the Korean War: by failing to have members of Congress publicly commit to armed intervention via a formal vote ex ante, they left themselves vulnerable to highly damaging congressional action ex-post if the use of force did not end in victory.” Presidents don’t seek Congressional approval for every mission, but for interventions that may last a long time or have the potential to go badly, they want Congress on board.

We can see this with respect to President Obama’s decision not to strike Syria in 2013. Obama’s initial instinct, testified to by many with access to the deliberations, was to launch an attack on Syria as soon as possible. At the same time, it seems that Obama became less certain that US involvement could be limited to a few airstrikes. The Syrian government was weak but in no danger of imminent collapse, and Obama worried that initial strikes would require a follow-up if Assad continued to use chemical weapons. This makes sense in the context of Hulme’s model; a President who may be entirely willing to conduct a quick, one-off strike without Congressional approval will find it altogether less pleasant to launch a long-term military operation without bringing Congress on board.

The real danger would be for a President to decide upon war without consulting Congress and then earn public adulation for acting effectively as a lawless warlord, or assume that Congress will eventually be forced to support them. Presidents do not launch wars in anticipation that they will become more popular over time. The more engagement the conflict requires, the more a President wants to begin the war with clear Congressional support. In this sense, Congress provides the President with a degree of protection against critics in case a military operation goes bad.

The belief that launching and waging a war independently of Congress would result in popularity would be truly dangerous to both America and the world. Fortunately, Presidents don’t tend to act in this way. Rather, they see unilateral war, especially when the chance of a prolonged engagement is high, as too politically risky. Even when Presidents claim that they do not need Congressional authority to launch a war, they seek such authority because they want political protection. And in truth it is unclear that Congressional approval did much to protect Johnson from the verdict of Vietnam or George W. Bush from the verdict of Iraq; both Presidents bore the brunt of public criticism for the decision to go to war, notwithstanding the approval of Congress.

Thus, the problem is less that the “imperial” President launches wars without the authorization of Congress. The problem is that Congress has displayed all-too-much willingness to go along with even the worst wars that a President seeks to undertake. None of this means that reforming Presidential warmaking powers isn’t a good idea. In particular, giving Congress more control over presidential power at low levels of escalation (arms sales, for example) clearly seems to be a good idea. Moreover, we should not underestimate the ability of a President to control the public discourse, and especially to control the flow of intelligence. Both the Vietnam War and the Iraq War were launched with a faulty intelligence frame; the executive characterized and distorted existing intelligence to paint a picture favorable to war. But as always, resolving the problem requires careful analysis of the extent of the problem.

### 2ac – flex good – renewables

#### Biden’s using executive wartime powers to secure critical minerals to develop clean energy – broad national security flex is key

Josh Siegel et al. 22, Zack Colman, Jordan Wolman and Tanya Snyder, 03/30/2022, “Biden eyes using wartime powers for minerals needed in clean energy push,” POLITICO, <https://www.politico.com/news/2022/03/30/biden-expected-to-use-wartime-powers-for-minerals-needed-in-clean-energy-push-00021693>, nihara

The White House is weighing using wartime executive powers to boost U.S. battery production to help secure supplies for the growing market for electric vehicles and power storage on the electric grid, according to two people familiar with the Biden administration’s thinking.

President Joe Biden would use the Defense Production Act to help secure U.S. sources of critical minerals that are deemed key components of clean energy technology. While the U.S. possesses many of those minerals, industry and some lawmakers of both parties contend regulations have deterred development and forced the U.S. to rely on supplies from nations like China, Russia, South Africa and Australia.

“As we break our dependence on foreign sources of oil and natural gas, we must ensure that we secure the materials necessary for the clean energy economy in a way that holds to our strong environmental, labor, Tribal engagement standards and does not leave us reliant on unreliable and unsustainable foreign supply chains,” one of the people said.

The move to use an emergency national defense law dating to the Cold War comes as the prices of battery minerals like nickel, lithium and cobalt, have surged during Russia’s war in Ukraine. Russia is a leading producer of nickel, copper and other minerals. Prices were already rising before Russia’s invasion because of forecasts that global supply won’t keep up with surging demand expected from electrifying economies.

Influential lawmakers led by Democratic Sen. Joe Manchin (D-W. Va.), chair of the Energy Committee, and Sen. Lisa Murkowski (R-Alaska) called last month for the Biden administration to invoke the Defense Production Act to boost the production and processing of critical minerals, citing the ongoing supply chain crisis and the vulnerability of depending on Russian mineral supplies.

“It’s a nice start. If you are going to go whole hog on electric and you don’t have the minerals, you ought to do something,” Sen. Bill Cassidy (R-La.), who signed a letter with Manchin and Murkowski prodding the Biden administration to take the action, said in an interview. Several Democratic senators wrote to Biden two weeks later expressing concern over supply chain issues related to the Ukraine crisis, too.

Rich Nolan, CEO of the National Mining Association, said the Biden administration is sending a “strong signal” to the marketplace by taking action.

“It’s going to incentivize getting some of these materials to the marketplace right when we need it,” Nolan said in an interview.

The effort Biden is considering would not circumvent or speed up permitting and environmental reviews, one of the people familiar with the plan said, a likely nod to the fact that some Democrats and green groups are wary of expanding mining on U.S. soil.

Instead, the actions would act almost as an investment vehicle, the person said. Adding minerals like nickel, lithium, graphite, manganese and cobalt to a list of covered materials under the Defense Production Act’s Title III program could help companies secure money from a fund designed to ensure the U.S. maintains an industrial base for wartime capabilities. Those dollars would finance feasibility studies along with productivity and safety improvements rather than directly buying minerals.

A 2019 Congressional Research Service report found the U.S. relies wholly on imports for 14 critical minerals, including manganese, graphite and rare earths.

The move is in line with previous uses of the Defense Production Act, which explicitly grants the president authority to address the mining and production of minerals that are considered essential to the nation’s security. It was invoked in the 1950s to ensure an adequate supply of steel for use in the Korean War and again during the Cold War to establish domestic aluminum and titanium industries and reduce reliance on foreign sources.

“These are all things that the U.S. needs to help build up the U.S. mining industry into something that is capable of navigating the energy transition,” said Jordy Lee, a program manager at the Payne Institute for Public Policy at the Colorado School of Mines. “Demand estimates show 1000 percent increases in lithium demand, 200 percent increases in nickel demand, etc, and the U.S. mining industry is struggling.”

Efforts to expand domestic mining production have already hit roadblocks at the state and local level, as litigation, state mining laws and environmental opposition have stymied some projects. The Biden administration itself canceled the leases for a major proposed copper-nickel mine in Minnesota earlier this year.

#### Decarbonizing the grid is sufficient to mitigate the catastrophic effects of global warming -- top predictive studies conclude it’s the only way

Roberts 20 – journalist focusing on energy and climate change. (David, “How to drive fossil fuels out of the US economy, quickly.” Vox. August 6, 2020. DOA: September 2, 2021. https://www.vox.com/energy-and-environment/21349200/climate-change-fossil-fuels-rewiring-america-electrify)//MG

A similar mobilization will be necessary for the US to decarbonize its economy fast enough to avert the worst of climate change. To do its part in limiting global temperature rise to between 1.5° and 2° Celsius, the US must reach net-zero carbon emissions by 2050 at the latest. To achieve this, the full resources of the US economy must be bent toward manufacturing the needed clean-energy technology and infrastructure. FDR began with two questions. First, he asked not what was politically feasible but what was necessary to win the war. He also asked not how much funding was available in the federal budget but how much productive capacity was available in the economy — what was possible. Saul Griffith is trying to answer those same questions on climate change: what is necessary, given the trajectory of global warming, and what is possible, given the resources in the US economy. A physicist, engineer, researcher, inventor, serial entrepreneur, and MacArthur “genius” grant winner, Griffith’s recent work spans two organizations. First, he is founder and chief scientist at Otherlab, an independent research and design lab that has mapped the energy economy. And alongside Alex Laskey, co-founder of Opower, he recently started Rewiring America, which will develop and advocate for policies to rapidly decarbonize the US through electrification. (The organization is going to release a book called — be still my heart — Electrify Everything.) Last week, Rewiring America made its big debut with a jobs report showing that rapid decarbonization through electrification would create 15 million to 20 million jobs in the next decade, with 5 million permanent jobs after that. For the most part, the media covered it as just another jobs report, saying basically what other clean-energy jobs reports have said. But the jobs are, in many; ways, the least interesting part of the work. Much more interesting is Griffith’s larger project the model he’s built and its implications. In a nutshell, he has shown that it’s possible to eliminate 70 percent to 80 percent of US carbon emissions by 2035 through rapid deployment of existing electrification technologies, with little-to-no carbon capture and sequestration. Doing so would slash US energy demand by around half, save consumers money, and keep the country on a 1.5° pathway without requiring particular behavior changes. Everyone could still have their same cars and houses — they would just need to be electric. “The report reinforces a key finding,” says Leah Stokes, an environmental policy expert at the University of California Santa Barbara. “Cleaning up the electricity system solves the lion’s share of the problem. It allows us to electrify our transportation and building sectors and parts of heavy industry, which would address more than 70 percent of total emissions.” Some of Griffith’s conclusions run contrary to conventional wisdom in the energy space. And they are oddly optimistic. Despite the titanic effort it would take to decarbonize, the US doesn’t need any new technologies and it doesn’t require any grand national sacrifice. All it needs, in this view, is a serious commitment to building the necessary machines and creating a regulatory and policy environment that supports their rapid deployment. In this post, I will walk through the energy data he’s assembled, what the data reveals about the fastest way to decarbonize, how fast that decarbonization could be accomplished, why it’s doable, its political challenges, and its political promise. Griffith’s work is among the most interesting contributions to the climate discussion in ages. There’s a lot here, but it is worth your time. Let’s start with how he built the model. How energy is used in the US economy, explained In 2018, after applying for years, Otherlab was finally awarded a contract from the Department of Energy’s Advanced Research Projects Agency-Energy to assemble in one place, for the first time, all publicly available data on how energy is used in the US. As it happens, the US has great energy data. In response to the oil crisis of the 1970s, presidents created the Energy Information Administration, the Department of Energy, and the Environmental Protection Agency. Those agencies began gathering data on how energy is generated, transported, and used in various parts of the economy, and since have accumulated an enormous catalog. Oddly, all that data has never been gathered, harmonized, and put in a single database. So Griffith and colleagues spent years poring over agency output from the last 50 years — he ruefully cops to being “the only person on the planet who has read every footnote of every DOE report since 1971” — and assembling it in a massive dashboard, which you can view here. It tracks where every unit of energy enters the economy and how it is used as it passes through. This is not a model, per se, it’s just lots and lots of data visualized, a close-up “machine-level” view of energy flows in the US economy. But having the data in one place provides the raw material for Rewiring America to build a high-resolution model of what it would actually take to decarbonize — how many machines must be built, what kind, and how fast. “Where most studies look at decarbonization in specific individual sectors such as transportation, the electricity grid, or buildings — and mostly only on the supply side,” the Rewiring America report says, “we build a model of the interactions of all sectors, both supply and demand, in a rapid and total decarbonization.” The fastest way to decarbonize is to electrify everything Griffith begins with a core assumption: We need to make a plan to solve the problem with the tools available. It is unwise, for instance, to bet on a large amount of carbon capture and sequestration coming online in time to make a difference. The technologies are still in the early stage and there are strong arguments they will never pencil out. Griffith takes a “yes, and” approach. If carbon capture sequestration works out, great. If next-gen nuclear reactors work out, great. If hydrogen-based fuels work out, great. But we shouldn’t rely on any of them until they are real. We need to figure out how to do the job with the technology available. On that score, Griffith’s modeling reaches two key conclusions. First, it is still possible to reduce US greenhouse gas emissions in line with a 1.5°C pathway. Specifically, it is possible to reduce US emissions 70 percent to 80 percent by 2035 (and to zero by 2050) through rapid electrification, relying on five already well-developed technologies: wind and solar power plants, rooftop solar, electric vehicles, heat pumps, and batteries. Think of those technologies as the infrastructure of 21st century life. If everyone uses carbon-free energy to heat their homes and get around, the bulk of the problem will be solved. Second, to decarbonize in time, substitution of clean-energy technologies for their fossil-fuel counterparts must ramp up to 100 percent as fast as possible, after a brief period of industrial mobilization. Every time a gas or diesel car is replaced, it must be replaced with an EV; every time an oil or gas furnace is replaced, it must be replaced with a heat pump; every time a coal or gas power plant goes offline, it must be replaced with renewable energy. There is no room left in a 1.5° or 2° scenario for more fossil fuel infrastructure or machines. We need to radically ramp up production of electrification technologies and implement the policy and financing tools that will enable 100 percent substitution. Clocking the maximum feasible transition to clean energy Griffith and his colleagues set out to model a “maximum feasible transition” to carbon-free energy, limited only by the country’s production capacity. They describe it like this: The maximum feasible transition (MFT) involves two primary stages: (i) an aggressive WWII–style production ramp–up of 3–5 years, followed by (ii) an intensive deployment of decarbonized infrastructure and technology up to 2035. This includes supply–side generation technologies as well as demand–side technologies such as electric vehicles and building heat electrification. When it says production ramp-up, it’s no joke. Within three to five years, production of electric vehicles would have to increase four-fold, batteries 16-fold, wind turbines 12-fold, and solar modules 10-fold. Accommodating all those new electricity loads would also mean expanding the size of the grid by three- or four-fold. “Today, we deliver about 450 gigawatts constantly,” says Griffith. “In the model of the future — where everyone’s house is the same size, everyone’s car is the same size, but it’s all electrified — you need to deliver 1,500 to 2,000 gigawatts.” (To be clear, Griffith doesn’t necessarily think Americans should keep driving giant cars and living in giant houses. He supports urbanism and cycling and downsizing generally. He spent many years running a radical downsizing experiment on his own life. But he wants the public to know that changing their lifestyle is not necessary for decarbonization.) Almost all the heavy lifting in the maximum feasible transition is done by electrification, “the exception being 5-10 Quads of non–electrical energy sources coming from [biofuels]” the Rewiring America report says. “Hydrogen or other synthetic fuels (which are generated from electricity) are deployed for a few high–temperature applications. The scenario does not rely on any deployment of carbon capture and storage, and all primary energy sources are net zero.” In terms of generation, wind and solar do the bulk of the work, “along with a doubling of the current nuclear electricity fleet from 100GW to 200GW.” In particular, distributed energy (rooftop and community solar and batteries) plays a huge role, “accounting for around 25% of energy supply and a high degree of the storage capacity” would reduce the amount of energy the US needs by half. One key aspect of electrification makes this transformation possible, and it represents perhaps the most astonishing finding in Griffith’s modeling: Large-scale electrification would slash total US primary energy demand in half, from around 100 quads to about 45-50. This a huge deal — it means America only needs to produce about half the energy with renewables that it is currently producing with fossil fuels. And that massive drop in demand assumes no behavior change, no insulated buildings or double-glazed windows, no traditional “efficiency” measures of any kind. The transition from fossil fuel combustion to electricity, in and of itself, is the largest demand-side climate policy available. How is that possible? The simple answer comes down to the fact that electric motors are more efficient than fossil fueled motors at converting primary energy into useful work. The somewhat more complicated answer is this. You cut almost 10 percent off of energy demand right off the bat, says Griffith, because the Energy Information Administration has been overestimating, due to the way it accounts for nuclear and hydroelectric energy. (It’s too complicated to get into here.) Another 10 percent of energy used in today’s economy goes toward “finding, mining, refining, and transporting fossil fuels,” Griffith says, and that demand goes away in an electrified economy. So it’s down to 80 percent left to replace. Shifting from fossil fuel power plants to renewable energy saves another 15 percent, because carbon-free, non-thermal power sources rely on fewer energy conversions than thermoelectric sources. Electrifying transportation gets another 15 percent, because electric vehicles (EVs) are more efficient than internal combustion engine (ICE) vehicles. Electrifying buildings gets another 6 percent to 9 percent. To be clear, the US could reduce demand even more if it continued to better insulate buildings and other efficiency measures, if it downsized homes, drove less, and relied more on walking and electric cycling to get around. But it is worth emphasizing, again: The biggest demand-side policy by far is electrification, which could slash US energy demand by half. “You can’t efficiency your way to zero,” Griffith says. “You have to transform.” Industry is not as big a carbon problem as it appears The alleged difficulty of decarbonizing heavy industry has been a major topic in carbon circles lately. (I have written about it myself.) It is one of the reasons often offered for why large-scale negative emissions will be needed. Griffith disagrees. He points out that a big chunk of the carbon emissions attributed to industry are devoted to fossil fuels and will disappear as they do. For instance, 4 percent to 5 percent of US energy is used to turn oil into gasoline, a subcategory of industry that will decline along with ICE vehicles. As for the rest, “steel is tiny, and we can use hydrogen to make steel,” he says. “Aluminum traditionally makes a lot of CO2 because we use carbon electrodes for the smelting process; Alcoa and Rio Tinto already have carbonless electrodes for aluminum. Cement is still hard, but that’s only 1 percent. And the rest of industrial heat can mostly be done with induction for high-temperature heat or heat pumps for low-temperature heat.” In short, industry is a problem, but a relatively small one. “It’s the last 5 percent of emissions,” Griffith says. “It’s hardly the thing that should stop us.”

#### Warming causes extinction -- leads to severe weather conditions, ecosystem collapse, and armed conflict

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By 2050, there is broad scientific acceptance that system tipping-points for the West Antarctic Ice Sheet and a sea-ice-free Arctic summer were passed well before 1.5°C of warming, for the Greenland Ice Sheet well before 2°C, and for widespread permafrost loss and large-scale Amazon drought and dieback by 2.5°C. The “hothouse Earth” scenario has been realised, and Earth is headed for another degree or more of warming, especially since human greenhouse emissions are still significant.20 While sea levels have risen 0.5 metres by 2050, the increase may be 2–3 metres by 2100, and it is understood from historical analogues that seas may eventually rise by more than 25 metres. Thirty-five percent of the global land area, and 55 percent of the global population, are subject to more than 20 days a year of lethal heat conditions, beyond the threshold of human survivability. The destabilisation of the Jet Stream has very significantly affected the intensity and geographical distribution of the Asian and West African monsoons and, together with the further slowing of the Gulf Stream, is impinging on life support systems in Europe. North America suffers from devastating weather extremes including wildfires, heatwaves, drought and inundation. The summer monsoons in China have failed, and water flows into the great rivers of Asia are severely reduced by the loss of more than one-third of the Himalayan ice sheet. Glacial loss reaches 70 percent in the Andes, and rainfall in Mexico and central America falls by half. Semi-permanent El Nino conditions prevail. Aridification emerges over more than 30 percent of the world’s land surface. Desertification is severe in southern Africa, the southern Mediterranean, west Asia, the Middle East, inland Australia and across the south-western United States. Impacts: A number of ecosystems collapse, including coral reef systems, the Amazon rainforest and in the Arctic. Some poorer nations and regions, which lack capacity to provide artificially-cooled environments for their populations, become unviable. Deadly heat conditions persist for more than 100 days per year in West Africa, tropical South America, the Middle East and South-East Asia, which together with land degradation21 and rising sea levels contributes to perhaps a billion people being displaced. Water availability decreases sharply in the most affected regions at lower latitudes (dry tropics and subtropics), affecting about two billion people worldwide. Agriculture becomes nonviable in the dry subtropics. Most regions in the world see a significant drop in food production and increasing numbers of extreme weather events, including heat waves, floods and storms. Food production is inadequate to feed the global population and food prices skyrocket, as a consequence of a one-fifth decline in crop yields, a decline in the nutrition content of food crops, a catastrophic decline in insect populations, desertification, monsoon failure and chronic water shortages, and conditions too hot for human habitation in significant food-growing regions. The lower reaches of the agriculturally-important river deltas such as the Mekong, Ganges and Nile are inundated, and significant sectors of some of the world’s most populous cities — including Chennai, Mumbai, Jakarta, Guangzhou, Tianjin, Hong Kong, Ho Chi Minh City, Shanghai, Lagos, Bangkok and Manila — are abandoned. Some small islands become uninhabitable. Ten percent of Bangladesh is inundated, displacing 15 million people. According to the Global Challenges Foundation’s Global Catastrophic Risks 2018 report, even for 2°C of warming, more than a billion people may need to be relocated due to sea-level rise, and In high-end scenarios “the scale of destruction is beyond our capacity to model, with a high likelihood of human civilisation coming to an end”.22 National security consequences: For pragmatic reasons associated with providing only a sketch of this scenario, we take the conclusion of the ​Age of Consequences ‘Severe’ 3°C scenario developed by a group of senior US national-security figures in 2007 as appropriate for our scenario too: Massive nonlinear events in the global environment give rise to ​massive nonlinear societal events​. In this scenario, nations around the world will be ​overwhelmed by the scale of change and pernicious challenges, such as pandemic disease. The internal cohesion of nations will be under great stress, including in the United States, both as a result of a dramatic rise in migration and changes in agricultural patterns and water availability. The flooding of coastal communities around the world, especially in the Netherlands, the United States, South Asia, and China, has the potential to challenge regional and even national identities.​ Armed conflict between nations over resources, such as the Nile and its tributaries, is likely and nuclear war is possible. The social consequences range from increased religious fervor to ​outright chaos​. In this scenario, climate change provokes ​a permanent shift in the relationship of humankind to nature​’.23 (emphasis added)

### 2ac – strikedown

--if they say they fiat the courts ban the plan then this would also answer that

#### Counterplan’s struck down:

#### 1 – standing – Courts routinely dismiss suits for lacking

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Multiple parties have sought to litigate the War Powers Resolution. 59 The War Powers Resolution has proven resistant to litigation. 60 The first problem is standing discussed in Part II.B.1.a. 61 Beyond standing are other judicial doctrines barring litigation in Part II.B.1.b. 62

a. Standing for Plaintiff to a Lawsuit, whether member of Congress or not

Standing is a fundamental constitutional concept. 63 If plaintiffs lack standing, courts dismiss the lawsuit. 64 Standing means that plaintiffs can show particularized injury in their complaint, and does not include taxpayers. 65 Two types of plaintiffs have brought lawsuits over the War Powers Resolution and military force: (1) members of Congress and (2) everyone else. 66

Members of the military, part of the everyone-elses, can also bring suit like Captain Smith, whose complaint recited his injuries to show standing. 67 His presumed legal injuries, however, did not grant standing, and the courts have found other reasons to dismiss on standing for military members. 68 Therefore, standing is the initial constitutional hurdle that plaintiffs must overcome. 69

Member of Congress have also tried to litigate the War Powers Resolution. 70 Similarly, members of Congress must also have standing. 71 Likewise, the courts have dismissed Congressional members' suits for lacking standing, even claims of standing based on stewardship of taxpayer dollars. 72 Although often lacking standing and thereby access to the courts, members of Congress also have access to Congressional fora to disagree with military action which they should utilize rather than the courts. 73 Moreover, the courts will typically find that Congress cannot litigate the War Powers Resolution. 74

#### 2 – doctrinal – mootness, political question, Feres, AND court deference to the military lead to dismissal of suits – if they fiat through it, breaks the state secrets doctrine AND causes leaks

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b. Dismissal Unattached to Standing

Beyond standing, courts have other doctrinal reasons to dismiss any litigation involving the War Powers Resolution beyond simply standing. 75 One doctrine is mootness, and another is political question. 76 The courts also have a favored disposition toward the military and national security. 77 Finally, the Feres Doctrine bars civil suits against the military. 78 All of these doctrines lead to dismissal. 79

Mootness means that a controversy is no longer ripe, and a recurring injury does not counter mootness. 80 Even if plaintiffs had standing to bring a case, military action may move too swiftly for the courts to react. 81 In short, sometimes the military action has already achieved its purpose, removing the impetus for the lawsuit, hence the problem of mootness. 82

Certain controversies are, by their nature, outside of what the courts will entertain; as Justice Douglass noted "[u]sed to bar from the courts questions which . . . the Constitution . . . left to the other two coordinate Branches to resolve, viz., the so-called political question." 83 The political question doctrine is a narrow doctrine and relates to the enumerated powers of the various branches. 84 The War Powers are enumerated powers, and the courts have dismissed various lawsuits based on the political question doctrine. 85 For instance, the court noted the political question doctrine was an alternative reason to dismiss Captain Smith's suit. 86 Thus, the political question doctrine is also a bar to litigating the War Powers and War Powers Resolution. 87

One other ground for dismissal is general deference to the military and national security. 88 The state secrets doctrine is an evidentiary privilege which keeps information related to state secrets or national security out of the courts for fear of disclosure. 89 The states secrets doctrine also has an example of false invocation, such as United States v. Reynolds. 90 Moreover, in recent years the state's secrets doctrine has transformed from an evidentiary privilege to a dispositive privilege to dismiss suits. 91 Additionally, the courts have shown a degree of deference toward the military and military policy underscoring the President's authority as Commander-in-Chief. 92 One example is the Koramatsu decision, where the Court found that military necessity was an adequate reason for the internment of Japanese-Americans. 93 Taken together, state secrets and deference to the military are additional bars to litigation. 94

Finally, specific to military members, is the Feres Doctrine, which grants civil suit immunity to the military in a wide variety of causes of action. 95 The end result is that the courts dismiss these suits under the Feres Doctrine. 96 Because Captain Smith's suit is against the Commander-in-Chief, such a suit could also be barred under the Feres Doctrine, although the Feres Doctrine has primarily been a torts doctrine. 97 Thus, the Feres Doctrine could act as a bar to litigants. 98 In short, multiple judicial doctrines exist, such as standing, or mootness, or political questions, which bar litigation of the War Powers doctrine. 99

### 2ac – at: nb – congress fails

#### Congress fails to check the Executive

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2. Congressional Abdication

If the War Powers are truly a political question, as the courts maintain, then part of the blame lies with Congress. 183 Part of the problem is that Congress has only toyed with fixing the War Powers Resolution using its normal legislative capabilities, or considered outright repeal. 184 Other members of Congress have settled for incremental modification, requiring the President to consult Congress more frequently and return to a more consultative system for using military force, but without results. 185 Nor have Congressional-led lawsuits led to anything; moreover, many of these lawsuits have partisan roots. 186

Congress also deserves a degree of blame for the current AUMF status via continued funding of the use of military force. 187 Funding war is a Congressional power, one which Congress could potentially withhold and end some use of military force, even while troops are engaged. 188 Yet, to contend plausibly that Congress would cease funding with deployed troops in the field, for instance, utterly ignores the political problems of that choice and ignores the political costs associated with funding, making sole control of funding an ineffective check on the Executive Branch. 189 Moreover, Congress continues to vote for funding for military operations, tacitly approving the President's actions. 190 Between continuing to fund wars and lack of legislative initiative on the war powers, Congress has effectively abdicated its position, and has not adopted a way that would make the use of military force a more consultative act between Executive and Legislation, which this Note proposes. 191 Therefore, Congress' supine stance, partisanship, and other maladies do not auger that Congressional action will change the policy of perpetual war. 192

### 2ac – at: nb – exec circumvents / strikedown

---if the CP has congress ban the plan because of lack of authorization

#### Exec circumvents AND Courts strikedown the CP

By Erica H. Ma 21, J.D., 2020, New York University School of Law; B.A., 2015, University of Pennsylvania, "Article: The War Powers Resolution and the Concept of Hostilities," Northeastern University Law Review, 13, 519, pp. 535-537, May 2021, Lexis, nihara

In line with the purpose of the resolution, the Senate report of the WPR noted that Section 5(b) is the "heart and core" of the resolution and "represents, in an historic sense, a restoration of the constitution[al] balance which has been distorted by practice in our history." 87Executive branch officials, however, have challenged this provision in particular as an "unconstitutional infringement on the President's authority as Commander in Chief." 88Moreover, the executive branch has argued that this provision "interferes with successful action, signals a divided nation and lack of resolve, gives the enemy a basis for hoping that the President will be forced by domestic opponents to stop an action, and increases risk to U.S. forces in the field." 89While Section 5(c) of the WPR allows Congress, through a concurrent resolution, to direct the President to remove U.S. armed forces from situations of hostilities, the Supreme Court's 1983 decision INS v. Chadha, which struck down one-house legislative vetoes not presented to the President for signature, has cast doubt on the constitutionality of Section 5(c). 90

Because of the dispute over the constitutionality of Section 5(b), the meaning of "hostilities" under the WPR has become contested through the years, as the sixty-day termination clock is only triggered when U.S. armed forces are introduced "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." 91At the time of the WPR's passage, a report of the House Foreign Affairs Committee defined "hostilities" broadly: It noted that "hostilities" is "broader in scope" than an "armed conflict" (a term with legal meaning under international law), and that "hostilities" can include a "state of confrontation in which no shots have been fired." 92However, as Section II.C elaborates, subsequent presidential administrations--including the Ford Administration, the first to submit a forty-eight-hour report pursuant to the hostilities/imminent hostilities prong of the WPR--interpreted "hostilities" narrowly to encompass only situations where "units of the U.S. armed forces are actively engaged in exchanges of fire with opposing units of hostile forces." 93This narrow interpretation of "hostilities" has allowed Presidents through the years to claim that there is a greater range of situations into which he can send U.S. armed forces without triggering the WPR's withdrawal mandate.