### 1

#### A1.

Resolved means a firm course of action.

American Heritage Dictionary, 2000

v. tr. To make a firm decision about.

#### Should implies duty and obligation.

Words and Phrases, 1986

The word “should,” as used in instructions, may convey to the jury the sense of duty and obligation. State v. Connor, 87 P. 703, 74 Kan. 898.

#### Substantially increase means REAL, not potential

**Words and Phrases** 19**64** (40 W&P 759) (this edition of W&P is out of print; the page number no longer matches up to the current edition and I was unable to find the card in the new edition. However, this card is also available on google books, Judicial and statutory definitions of words and phrases, Volume 8, p. 7329)

The words “outward, open, actual, visible, substantial, and exclusive,” in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain; absolute; **real at present time**, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including admitting, or pertaining to any others; undivided; sole; opposed to inclusive. Bass v. Pease, 79 Ill. App. 308, 318.

#### A2. Introducing armed forces only refers to human troops, not weapons systems like nukes

Lorber 13

Eric Lorber, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science. January 2013, "Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?" University of Pennsylvania Journal of Contsitutional Law, 15 U. Pa. J. Const. L. 961, lexis nexis

C. The War Powers Resolution as Applied to Offensive Cyber Operations As discussed above, critical to the application of the War Powers Resolution - especially in the context of an offensive cyber operation - are the definitions of key terms, particularly "armed forces," as the relevant provisions of the Act are only triggered if the President "introduc[es armed forces] into hostilities or into situations [of] imminent ... hostilities," n172 or if such forces are introduced "into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces." n173 The requirements may also be triggered if the United States deploys armed forces "in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation." n174 As is evident, the definition of "armed forces" is crucial to deciphering whether the WPR applies in a particular circumstance to provide congressional leverage over executive actions. The definition of "hostilities," which has garnered the majority of scholarly and political attention, n175 particularly in the recent Libyan conflict, n176 will be dealt with secondarily here because it only becomes important if "armed forces" exist in the situation. ¶ As is **evident from a** textual analysis, n177 an examination of the legislative history, n178 and **the broad** policy purposes behind the creation of the Act, n179 [\*990] "armed forces" refers to U.S. soldiers and members of the armed forces, not weapon systems or capabilities such as offensive cyber weapons. Section 1547 does not specifically define "armed forces," but it states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government." n180 While this definition pertains to the broader phrase "introduction of armed forces," the clear implication is that **only members of the armed forces count for the purposes of the definition under the WPR.** Though not dispositive, **the term "member" connotes a human individual who is part of an organization.** n181 Thus, it appears that the term "armed forces" means human members of the United States armed forces. However, there exist two potential complications with this reading. First, the language of the statute states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces." n182 By using inclusionary - as opposed to exclusionary - language, one might argue that the term "armed forces" could include more than members. This argument is unconvincing however, given that a core principle of statutory interpretation, expressio unius, suggests that **expression of one thing (i.e., members) implies the exclusion of others (**such as non-members **constituting armed forces)**. n183 Second, the term "member" does not explicitly reference "humans," and so could arguably refer to individual units and beings that are part of a larger whole (e.g., wolves can be members of a pack). As a result, though a textual analysis suggests that "armed forces" refers to human members of the armed forces, such a conclusion is not determinative.¶ **An examination of the legislative history also suggests that Congress clearly conceptualized "armed forces" as human members of the armed forces**. For example, disputes over the term "armed forces" revolved around who could be considered members of the armed forces, not what constituted a member. Senator Thomas Eagleton, one of the Resolution's architects, proposed an amendment during the process providing that the Resolution cover military officers on loan to a civilian agency (such as the Central [\*991] Intelligence Agency). n184 This amendment was dropped after encountering pushback, n185 but the debate revolved around whether those military individuals on loan to the civilian agency were still members of the armed forces for the purposes of the WPR, suggesting that Congress considered the term to apply only to soldiers in the armed forces. Further, during the congressional hearings, the question of deployment of "armed forces" centered primarily on past U.S. deployment of troops to combat zones, n186 suggesting that **Congress conceptualized "armed forces" to mean U.S. combat troops.**¶ **The broad purpose of the Resolution aimed to prevent the large-scale but unauthorized deployments of U.S. troops into hostilities**. n187 While examining the broad purpose of a legislative act is increasingly relied upon only after examining the text and legislative history, here it provides further support for those two alternate interpretive sources. n188 As one scholar has noted, "the War Powers Resolution, for example, is concerned with sending U.S. troops into harm's way." n189 The historical context of the War Powers Resolution is also important in determining its broad purpose; as the resolutions submitted during the Vietnam War and in the lead-up to the passage of the WPR suggest, Congress was concerned about its ability to effectively regulate the President's deployments of large numbers of U.S. troops to Southeast Asia, n190 as well as prevent the President from authorizing troop incursions into countries in that region. n191 The WPR was a reaction to the President's continued deployments of these troops into combat zones, and as such suggests that Congress's broad purpose was to prevent the unconstrained deployment of U.S. personnel, not weapons, into hostilities.¶ This analysis suggests that, when defining the term "armed forces," Congress meant members of the armed forces who would be placed in [\*992] harm's way (i.e., into hostilities or imminent hostilities). **Applied to offensive cyber operations, such a definition leads to the conclusion that the** W**ar** P**owers** R**esolution likely does not cover such activities**. Worms, viruses, and kill switches are clearly not U.S. troops. Therefore, the key question regarding whether the WPR can govern cyber operations is not whether the operation is conducted independently or as part of a kinetic military operation. Rather, the key question is the delivery mechanism. For example, if military forces were deployed to launch the cyberattack, such an activity, if it were related to imminent hostilities with a foreign country, could trigger the WPR. This seems unlikely, however, for two reasons. First, it is unclear whether small-scale deployments where the soldiers are not participating or under threat of harm constitute the introduction of armed forces into hostilities under the War Powers Resolution. n192 Thus, **individual operators deployed to plant viruses in particular enemy systems may not constitute armed forces introduced into hostilities or imminent hostilities.** Second, such a tactical approach seems unlikely. If the target system is remote access, the military can attack it without placing personnel in harm's way. n193 If it is close access, there exist many other effective ways to target such systems. n194 As a result, unless U.S. troops are introduced into hostilities or imminent hostilities while deploying offensive cyber capabilities - which is highly unlikely - such operations will not trigger the War Powers Resolution.

#### Violations

#### B1. The aff increases conditional restrictions of presidential authority, OR conditions the restrictions on another action.

#### B2. Intro of forces is not nuclear weapons

Forrester ’89 (Professor, Hastings College of the Law, University of California. Former dean of the law schools at Vanderbilt, Tulane, and Cornell) Ray 57 Geo. Wash. L. Rev. 1636

Even if the Court assumed its responsibility to tell us whether the Constitution gives Congress the necessary power to check the President, the War Powers Resolution itself is unclear. Does the Resolution require the President to consult with Congress before launching a nuclear attack? It has been asserted that "introducing United States Armed Forces into hostilities" refers only to military personnel and does not include the launching of nuclear missiles alone. In support of this interpretation, it has been argued that Congress was concerned about the human losses in Vietnam and in other presidential wars, rather than about the weaponry.

#### B3. Introduction/Hostilities doublebind. Escalation to nuclear weapons from a conventional conflict is NOT “Introduction” of forces—its augmentation of forces. Bolt from the Blue first strike is NOT hostilities, because no US forces will be at risk, since first strike begins and ends the war, hence no on-going hostilities. Extra T is voter as it dejustifies the resolution.

#### C. Standards

#### Ground. Their interp explodes the resolution to mean any weapons system, restrictions on asserted authority. That crushes neg predictability.

#### Topic education. Our interp ensures a narrow but robust debate on war powers, ensuring indepth topic education, which outweighs aff whines for creativity.

#### Precision. Our interp is evidence by topic specific ev, not generic definitions that define words

#### T is a voter for ground and topic education.

### 2

#### Iran sanctions are at the top of the docket – Obama is spending capital to persuade Democrats to sustain a veto

Lobe, 12-27

Reporter for Inter Press Service(Jim, “Iran sanctions bill: Big test of Israel lobby power”

<http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046>)

WASHINGTON - This week’s introduction by a bipartisan group of 26 senators of a new sanctions bill against Iran could result in the biggest test of the political clout of the Israel lobby here in decades.¶ The White House, which says the bill could well derail ongoing negotiations between Iran and the U.S. and five other powers over Tehran’s nuclear program and destroy the international coalition behind the existing sanctions regime, has already warned that it will veto the bill if it passes Congress in its present form.¶ The new bill, co-sponsored by two of Congress’s biggest beneficiaries of campaign contributions by political action committees closely linked to the powerful American Israel Public Affairs Committee (AIPAC), would impose sweeping new sanctions against Tehran if it fails either to comply with the interim deal it struck last month in Geneva with the P5+1 (U.S., Britain, France, Russia, China plus Germany) or reach a comprehensive accord with the great powers within one year.¶ To be acceptable, however, such an accord, according to the bill, would require Iran to effectively dismantle virtually its entire nuclear program, including any enrichment of uranium on its own soil, as demanded by Israeli Prime Minister Benjamin Netanyahu.¶ The government of President Hassan Rouhani has warned repeatedly that such a demand is a deal-breaker, and even Secretary of State John Kerry has said that a zero-enrichment position is a non-starter.¶ The bill, the Nuclear Weapon Free Iran Act, also calls for Washington to provide military and other support to Israel if its government “is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program.”¶ The introduction of the bill last week by Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez followed unsuccessful efforts by both men to get some sanctions legislation passed since the Geneva accord was signed Nov. 24.¶ Kirk at first tried to move legislation that would have imposed new sanctions immediately in direct contradiction to a pledge by the P5+1 in the Geneva accord to forgo any new sanctions for the six-month life of the agreement in exchange for, among other things, enhanced international inspections of Iran’s nuclear facilities and a freeze on most of its nuclear program.¶ Unable to make headway, Kirk then worked with Menendez to draw up the new bill which, because of its prospective application, would not, according to them, violate the agreement. They had initially planned to attach it to a defense bill before the holiday recess. But the Democratic leadership, which controls the calendar, refused to go along.¶ Their hope now is to pass it – either as a free-standing measure or as an amendment to another must-pass bill after Congress reconvenes Jan. 6.¶ To highlight its bipartisan support, the two sponsors gathered a dozen other senators from each party to co-sponsor it.¶ Republicans, many of whom reflexively oppose President Barack Obama’s positions on any issue and whose core constituencies include Christian Zionists, are almost certain to support the bill by an overwhelming margin. If the bill gets to the floor, the main battle will thus take place within the Democratic majority.¶ The latter find themselves torn between, on the one hand, their loyalty to Obama and their fear that new sanctions will indeed derail negotiations and thus make war more likely, and, on the other, their general antipathy for Iran and the influence exerted by AIPAC and associated groups as a result of the questionable perception that Israel’s security is uppermost in the minds of Jewish voters and campaign contributors (who, by some estimates, provide as much as 40 percent of political donations to Democrats in national campaigns).¶ The administration clearly hopes the Democratic leadership will prevent the bill from coming to a vote, but, if it does, persuading most of the Democrats who have already endorsed the bill to change their minds will be an uphill fight. If the bill passes, the administration will have to muster 34 senators of the 100 senators to sustain a veto – a difficult but not impossible task, according to Congressional sources.¶ That battle has already been joined. Against the 13 Democratic senators who signed onto the Kirk-Menendez bill, 10 Democratic Senate committee chairs urged Majority Leader Harry Reid, who controls the upper chamber’s calendar, to forestall any new sanctions legislation.

#### Obama’s strategy is working but failure scuttles the nuclear deal

Merry 1-1

Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy (Robert, “Obama may buck the Israel lobby on Iran” Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.”¶ For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House.¶ With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto.¶ It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement.¶ However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control.¶ Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.”¶ While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.”¶ That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars.¶ That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.¶ 2014 will mark the 100th anniversary of beginning of World War I, a conflict triggered by entangling alliances that essentially gave the rulers of the Hapsburg Empire power that forced nation after nation into a war they didn’t want and cost the world as many as 20 million lives. Historians have warned since of the danger of nations delegating the power to take their people into war to other nations with very different interests.¶ AIPAC’s political power is substantial, but this is Washington power, the product of substantial campaign contributions and threats posed to re-election prospects. According to the Center for Responsive Politics’ Open Secrets website, Sens. Kirk, Menendez and Schumer each receives hundreds of thousands of dollars a year in pro-Israel PAC money and each of their states includes concentrations of pro-Israel voters who help elect and re-elect them.¶ Elsewhere in the country, AIPAC’s Washington power will collide with the country’s clear and powerful political sentiment against further U.S. adventurism in the Middle East, particularly one as fraught with as much danger and unintended consequence as a war with Iran. If the issue gets joined, as it appears that it will, Mr. Obama will see that it gets joined as a matter of war and peace. If the Menendez-Schumer-Kirk legislation clears Congress and faces a presidential veto, the war-and-peace issue could galvanize the American people as seldom before.¶ If that happens, the strongly held opinions of a democratic public are liable to overwhelm the mechanisms of Washington power, and the vaunted influence of the Israel lobby may be seen as being not quite what it has been cracked up to be.

#### An adverse Court ruling will cause Obama defiance – triggers a Constitutional showdown that saps PC

Posner and Vermeule, 10

\*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 207-210)

The 9/11 attack provided a reminder of just how extensive the president’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant statutory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executive’s constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to imagine what would have happened if Congress had refused to pass the Authorization for Use of Military Force and the Supreme Court had ordered the executive to release detainees in a contested case. We think that the executive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would never have refused its imprimatur and the Supreme Court would never have stood in the executive’s way. The major check on the executive’s power to declare an emergency and to use emergency powers is—political.

#### That causes a US-Iran war and Iranian prolif

WORLD TRIBUNE 11-13

[Obama said to suspend Iran sanctions without informing Congress, http://www.worldtribune.com/2013/11/13/obama-said-to-suspend-iran-sanctions-without-informing-congress/]

The administration has also pressured Congress to suspend plans for new sanctions legislation against Iran. The sources said the White House effort has encountered resistance from both Democrats and Republicans, particularly those in the defense and foreign affairs committees.¶ “I urge the White House and the Senate to learn from the lessons of the past and not offer sanctions relief in return for the false hopes and empty promises of the Iranian regime,” Rep. Ileana Ros-Lehtinen, chairwoman of the House Middle East and North Africa Subcommittee, said. “Instead, new rounds of sanctions must be implemented to gain further leverage because any misstep in calculations at this juncture will have devastating and irreversible consequences that will be difficult to correct retroactively.”¶ On Nov. 12, the White House warned that additional sanctions on Iran would mean war with the United States. White House press secretary Jay Carney, in remarks meant to intensify pressure on Congress, said sanctions would end the prospect of any diplomatic solution to Iran’s crisis. ¶ “The American people do not want a march to war,” Carney said. “It is important to understand that if pursuing a resolution diplomatically is disallowed or ruled out, what options then do we and our allies have to prevent Iran from acquiring a nuclear weapon?”¶ Still, the Senate Banking Committee has agreed to delay any vote on sanctions legislation until a briefing by Secretary of State John Kerry on Nov. 13. The sources said Kerry was expected to brief the committee on the P5+1 talks in Geneva that almost led to an agreement with Teheran.¶ “The secretary will be clear that putting new sanctions in place would be a mistake,” State Department spokeswoman Jen Psaki said on Nov. 12. “We are still determining if there’s a diplomatic path forward. What we are asking for right now is a pause, a temporary pause, in sanctions.”

#### Iran war escalates

White 11

July/August 2011 (Jeffrey—defense fellow at the Washington Institute for Near East Policy, What Would War With Iran Look Like, National Interest, p. http://www.the-american-interest.com/article-bd.cfm?piece=982)

A U.S.-Iranian war would probably not be fought by the United States and Iran alone. Each would have partners or allies, both willing and not-so-willing. Pre-conflict commitments, longstanding relationships, the course of operations and other factors would place the United States and Iran at the center of more or less structured coalitions of the marginally willing. A Western coalition could consist of the United States and most of its traditional allies (but very likely not Turkey, based on the evolution of Turkish politics) in addition to some Persian Gulf states, Jordan and perhaps Egypt, depending on where its revolution takes it. Much would depend on whether U.S. leaders could persuade others to go along, which would mean convincing them that U.S. forces could shield them from Iranian and Iranian-proxy retaliation, or at least substantially weaken its effects. Coalition warfare would present a number of challenges to the U.S. government. Overall, it would lend legitimacy to the action, but it would also constrict U.S. freedom of action, perhaps by limiting the scope and intensity of military operations. There would thus be tension between the desire for a small coalition of the capable for operational and security purposes and a broader coalition that would include marginally useful allies to maximize legitimacy. The U.S. administration would probably not welcome Israeli participation. But if Israel were directly attacked by Iran or its allies, Washington would find it difficult to keep Israel out—as it did during the 1991 Gulf War. That would complicate the U.S. ability to manage its coalition, although it would not necessarily break it apart. Iranian diplomacy and information operations would seek to exploit Israeli participation to the fullest. Iran would have its own coalition. Hizballah in particular could act at Iran’s behest both by attacking Israel directly and by using its asymmetric and irregular warfare capabilities to expand the conflict and complicate the maintenance of the U.S. coalition. The escalation of the Hizballah-Israel conflict could draw in Syria and Hamas; Hamas in particular could feel compelled to respond to an Iranian request for assistance. Some or all of these satellite actors might choose to leave Iran to its fate, especially if initial U.S. strikes seemed devastating to the point of decisive. But their involvement would spread the conflict to the entire eastern Mediterranean and perhaps beyond, complicating both U.S. military operations and coalition diplomacy.

### 3

#### The United States Federal Government should engage into binding negotiations with the State of Israel and The United States federal judiciary should restrict the war powers authority of the President of the United States to introduce nuclear armed forces into hostilities against a government for inadvertently releasing nuclear material used in an attack against the United States or its allies without Congressional approval unless the State of Israel agrees to dismantle its nuclear arsenal and ratify the Nuclear Nonproliferation Treaty.

Linking pressure on Israel to US posture shows that we’re serious

Landau, 2009 (Emily, senior research associate, institute for national security studies, “The US and the NPT: Israel on the Line?” May 12, http://www.inss.org.il/upload/%28FILE%291242193388.pdf)

In her opening statement at the 3rd session of the Preparatory Committee (PrepCom) for the 2010 NPT Review Conference, Assistant Secretary of State Rose Gottemoeller discussed the three pillars of the NPT: disarmament, nonproliferation, and peaceful uses of nuclear energy. In the context of her comments on nonproliferation, she noted that "universal adherence to the NPT itself - including by India, Israel, Pakistan, and North Korea - also remains a fundamental objective of the United States." This sentence caused an immediate flurry of reactions in the Israeli media over whether this signified a change in the US position on Israel, and whether we could now expect increased pressure from the US in this regard. Coming in the somewhat charged period of new governments in both the US and Israel, and the sense of new pressures on Israel regarding the Palestinian question, this quick (over)reaction is perhaps not surprising. However, the immediate context of the statement underscores that it does not in itself indicate a break with past positions. The timing of the speech was determined by the NPT PrepCom cycle, and within this context it is standard US practice to express support for the NPT, including the hope that all states eventually join. Nevertheless, it is difficult to disconnect Gottemoeller's words from the broader disarmament agenda that President Obama has embraced of late, especially with regard to the expressed need for greater balance of emphasis among the three pillars of the NPT. A central theme of the new disarmament agenda in the US - that began with the famous Wall Street Journal articles by Kissinger, Shultz, Perry, and Nunn - is that the nuclear states must necessarily be much more serious about their own disarmament commitments in order to enhance the legitimacy of their demand for a reversal of the nuclear courses in Iran and North Korea. This is essentially a call for equality among states in the nuclear realm, without regard to their different situations and contexts. Placing states on equal footing in the nuclear realm, per their NPT commitments, and downplaying the important differences among them is a theme that could have problematic implications for Israel down the road, and is in and of itself flawed.

Pressuring Israel resolves the perception of a US double standard on proliferation

Stout, staff writer for the International Herald Tribune, 11/30/2007 (David, “A Mideast nuclear crisis,” lexis)

Although Israel has never publicly acknowledged possessing nuclear weapons, scientists and arms experts have no doubt that it has them, and the U.S. reluctance to pressure Israel to disarm has made the United States vulnerable to accusations that it is a preacher with a double standard when it comes to stopping the spread of weapons in the Middle East. Kissinger's memo, written barely two years after the 1967 Arab-Israeli War and while memories of the Holocaust were still vivid among the first Israelis, implicitly acknowledged Israel's right to defend itself, as subsequent U.S. administrations have done. But Kissinger reflected at length on the quandary faced by the United States. ''Israel will not take us seriously on the nuclear issue unless they believe we are prepared to withhold something they very much need,'' he wrote, referring to a pending sale of U.S. Phantom fighter jets to Israel.

That’s key to global non-proliferation

Hyo’n-to, columnist for the Nodong Sinmun newspaper, 11/16/2007

(Ri, “Unfair Double Standard Policy Which Increases the Risk of Nuclear War,” BBC Worldwide Monitoring, lexis)

As is known, the United States has actively encouraged and cooperated with Israel's nuclear armament plan since long ago. In the late 1960s, the US Nixon administration provided large computers and various types of nuclear facilities to Israel, and in the late 1980s, the first Bush administration sold 1,500 pieces of nuclear weapons development equipment to Israel behind the scenes. In the 1990s, the United States reportedly gave Israel a guarantee that it would ward off international pressures on [Israel's] development of nuclear weapons. The United States also tacitly approved and encouraged Japan's manoeuvres to stock up on plutonium. This is not all. When the nuclear issue occurs with the countries following [the United States], making the entire world abuzz, the United States looks the other way and just strokes its own beard. Bolton, a representative character of the US hard-line conservative elements, dismissed the possibility of Israeli nuclear threat, saying, "Israel is in special relationship with the United States. I think what is of utmost importance is that we are convinced there is no threat of Israel's use of nuclear weapons. We view that Israel will not use nuclear weapons against any country in the region. It is because that country is a democratic state and also because it is in a relationship of alliance with the United States." Without the United States' patronage and cooperation, it is impossible to think that Japan has ended up possessing enough plutonium to manufacture thousands of nuclear weapons, and that Israel has secretly stepped up the manoeuvres for nuclear armament to be able to produce and possess hundreds of nuclear weapons. Despite this fact, the United States picks the countries that have no problems, brands them as some "nuclear criminals" for the sole reason that they are not its allies, and exerts pressures, threats, and blackmails. The declassified US documents have revealed that in the mid-1970s, the US companies proposed to supply uranium enrichment and reprocessing plant equipment to Iran. At the time, the United States carried out uranium enrichment and fuel negotiations with Iran's pro-US Pahlavi regime, followed by an attempt to build reprocessing facilities. Today, however, the United States is making a big thing out of the peaceful nuclear activities by Iran, which goes forth on the anti-US, independent path, playing the game of taking it to the United Nations and imposing sanctions, and even scheming military attacks. As is shown by these facts, the United States turns a blind eye to some countries' nuclear weapons development and possession, signs nuclear agreements with them, and intends to promote nuclear technology cooperation, but for the countries that rub it the wrong way [the United States] viciously manoeuvres to take away even their rights to peaceful nuclear activities. The US newspaper Washington Post asked why the Bush administration excitedly makes a big thing out of Iran's nuclear issue but deals with Israel's nuclear weapons possession in a different manner. It went on to point out that this was a clear application of double standards. The former US President Carter said that the current US administration's double-standard nuclear policy hampers the world's stability and guarantee for peace, and criticized that "the United States is the culprit of the NPT collapse." If the United States maintained a fair stance, it should duly take issue with the nuclear armament manoeuvres of Japan and Israel and stop the double-faced unfair policy of trying to block peaceful nuclear activities by the countries that have fallen out of [the US] favour while extending nuclear cooperation with some countries. The United States' unfair conduct results in weakening the binding power of the NPT and driving the world towards a nuclear arms race. The United States' nuclear arm-twisting policy rendered the NPT useless and pushed the non-nuclear-possessing countries to acquire nuclear means. The United States steps up the buildup and modernization of the nuclear armed force and blatantly pursues nuclear war while talking about "non-nuclear proliferation." It is because [the United States] harbours a heinous motive to turn anti-imperialist, independent countries into the sacrificial lambs of its nuclear arm-twisting policy. Eliminating double standards and abiding by the principle of fairness on the nuclear issue is an important condition to prevent a nuclear arms race, realize nuclear disarmament, and guarantee the world's peace, security, and safety. Absolutely no one has the authority to exert dogmatism and tyranny, and this never works in today's world. If the United States threatens and blackmails other countries with its nuclear weapons and opts for the path of nuclear war, many countries will take measures in response, which will intensify nuclear confrontation and cover the earth with more nuclear weapons. In such a case, it is clear that the United States' safety will be at risk as well. The United States' security lies in nuclear disarmament, not in nuclear arms buildup. If the United States truly intends to prevent nuclear proliferation and make efforts for peace, it must stop the application of double standards and abide by the principle of fairness on the nuclear issue and convert its policy to the abolition of nuclear weapons. The United States must heed the voice of fair international opinion and get rid of its anti-peace nuclear policy before loudly talking about other countries' fictional "nuclear threat."

The impact is their Kellman 89 evidence – says “weapons proliferation can lead to nuclear winter”

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### 4

#### The President of the United States should issue a presidential directive announcing that the United States will not introduce nuclear weapons forces first into hostilities.

#### Solves the case

Rebeccah Heinrichs and Baker Spring 11-30-2012; Rebeccah Heinrichs is a Visiting Fellow and Baker Spring is F. M. Kirby Research Fellow in National Security Policy in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation. “Deterrence and Nuclear Targeting in the 21st Century”

<http://www.heritage.org/research/reports/2012/11/deterrence-and-nuclear-targeting-in-the-21st-century>

Principles for Contemporary Targeting Policy Nuclear targeting policy is ultimately established through presidential guidance, which typically takes the form of a directive. Meeting the demands of this guidance, more than anything else, determines the overall size and structure of the U.S. nuclear force. According to a recent report from the Government Accountability Office (GAO), the current guidance was issued in 2002, although new presidential guidance may be issued as soon as later this year.[24 ] Following the application of more detailed guidance from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, Strategic Command produces the Nuclear Forces Employment Plan. Given the overall structure of this process, presidential guidance has the potential to do enormous damage to U.S. national security if it is conceptually flawed.

### Negligence

#### Beljac is literally guessing, theres no warrant. He also admits that the NSPDs that would be the negligence doctrine are missing. That means there might not even be a negligence doctrine.

Marko Beljac 13 June 2008 (The Nuke Strategy Wonk, Another Hint for a Negligence Doctrine?, <http://scisec.net/?p=30>)

NSPD 57 and NSPD 58 are missing. One of them could be our negligence doctrine. You can see that NSPD 14 came out not long after 9/11. This would have been a busy time and I bet they did not calibrate everything into NSPD 14. We know that early in 2006 there was a big debate about nuclear deterrence and nuclear terrorism in the Administration.

I’m thinking that they have updated NSPD 14 in some manner to take into account the deterrence of nuclear terrorism; what’s more it’s reasonable to infer it includes a negligence doctrine, and that guidance might now be NSPD 57 or NSPD 58.

#### And these NSPDs have nothing to do with the negligence doctrine.

FAS 09 [Steven Aftergood, November 6 2009, “National Security Presidential Directives [NSPD] George W. Bush Administration,” FAS, <http://www.fas.org/irp/offdocs/nspd/index.html>]

NSPD 14 - [Nuclear Weapons Planning Guidance]

NSPD 57 - Implementation of the US-IAEA Additional Protocol

NSPD 58 - Advancing the Freedom Agenda (Fact Sheet)

#### 14 deals with planning guidance deals with targeting and systems, 57 deals with nuclear plants, and 58 is about democracy promotion.

#### And, the mission doesn’t exist

Corr 05 [Anders (Ph.D. Candidate at the Department of Government, Harvard University), March 2005, “Deterrence of Nuclear Terror: A Negligence Doctrine”, The Nonproliferation Review, Vol. 12, Iss. 1, Abstract]

Nuclear proliferation, lax security standards in the storage of fissile materials, and international apathy in the prosecution of terrorists make nuclear terror a serious threat to the United States and its allies, yet no doctrine of retaliation has been established. To decrease the probability of terrorist use of nuclear weapons, a doctrine of retaliation—a negligence doctrine—should be considered. If the United States can distinguish whose fissile material was used for a nuclear terror event, a negligence doctrine would prescribe retaliation against that state. Where the proximate cause—terrorists—is unavailable for deterrent retaliation, deterring an accessible mediate cause—a state that has failed to adequately secure its fissile material—is one of a few effective alternatives. In the absence of such a negligence doctrine, the United States and its allies are increasingly vulnerable to a nuclear terror attack and the ensuing negative consequences.

#### More ev

Wellen 09 [Russ (Editor Freezerbox Magazine and Contributor to Huffington Post), November 20, “Can Nuclear Terrorists Be Deterred?”, The Huffington Post, [http://www.huffingtonpost.com/russ-wellen/can-nuclear-terrorists-be\_b\_364960.html]](http://www.huffingtonpost.com/russ-wellen/can-nuclear-terrorists-be_b_364960.html)

An alternative means of encouraging reluctant states to cooperate could be the implementation of a "negligence" doctrine. In another work on the subject, "Nuclear Attribution as Deterrence" (not online) in the March 2007 Nonproliferation Review, Michael Miller reports on a writer named Anders Corr. He argues that the U.S. Cooperative Threat (Nunn-Lugar) program, which helps secure loose nukes in Russia, as well as dismantle designated Soviet era nuclear weapons, is a double-edged sword.

#### No nuclear terror- lack of resources, expertise, facilities, and certainty

Stalcup ‘12

[Travis C. Stalcup is a George and Barbara Bush Fellow at the George H.W. Bush School of Government and Public Service at Texas A&M University. <http://journal.georgetown.edu/2012/09/11/a-better-plan-for-port-security-by-travis-stalcup/> ETB]

However, the most competent and well-financed terrorists groups would face difficulty in mustering the resources, expertise and facilities to enrich nuclear material in meaningful quantities. Randomized spot checks would create doubt that an attack using shipping containers would succeed. Even if a terrorist group were to obtain nuclear material or a weapon, it is unlikely that it would expend the vast resources required to deliver it on such an uncertain operation. The uncertainty created by spot checks in addition to the enormous

#### Empirics and studies prove

Mauroni ‘12

(Al, senior policy analyst with the Air Force. A former Army officer, he has over twenty-five years experience in military chemical, biological, nuclear, and radiological (CBRN) defense policy and program development. He is a graduate of Carnegie-Mellon University and has a master’s of science in administration from Central Michigan University. He is the author of six books and more than two-dozen articles on the topic. His latest book is Where Are the WMDs? (Naval Press Institute, 2006), Volume VIII, “Nuclear Terrorism: Are We Prepared?” http://www.hsaj.org/?fullarticle=8.1.9)

The source of the threat is important to this discussion, even more so than the specific nature of the threat. By merely stating their intent to obtain “weapons of mass destruction” and their presence in Pakistan, a nuclear weapon-owning state, al Qaeda has caused the USG to attribute the group with nearly apocalyptic power to successfully attack the United States with a nuclear weapon.[7](javascript:void(0);)Most USG literature on the topic of WMD terrorism does not talk about al Qaeda specifically; rather, the general term “terrorist groups” or even more generic term “non-state actors” is used. I prefer the term “sub-state groups” to describe these organizations. The phrase “non-state actor” can apply to a large cast of characters, including private security firms, paramilitary units, criminal organizations, drug cartels, “lone gunmen,” and vigilantes, as well as terrorists and insurgents — basically anyone who is using violence as a method of persuasion outside of the government’s authority. We are mostly concerned about those foreign violent extremist groups who aspire to transnational activities.¶ The popular assumption is that terrorists are actively working with “rogue nations” to exploit WMD materials and technology, or bidding for materials and technology on some nebulous global black market. They might be buying access to scientists and engineers who used to work on state WMD programs. The historical record doesn’t demonstrate that. An examination of any of the past annual reports of the National Counterterrorism Center reveals that the basic modus operandi of terrorists and insurgents is to use conventional military weapons, easily acquired commercial (or improvised) explosives, and knives and machetes.[8](javascript:void(0);) It is relatively easy to train laypersons to use military firearms, such as the AK-47 automatic rifle and the RPG-7 rocket launcher. These groups have technical experts who develop improvised explosive devices using available and accessible materials from the local economy. Conventional weapons have known weapon effects and minimal challenges in handling and storing. Terrorists get their material and technology where they can. They don’t have the time, funds, or interests to get exotic. It’s what we see, over and over again.¶ Military chemical/biological (CB) warfare agents, radiological material, and nuclear weapons are not easily obtained, outside of government laboratories. Nation states invest large amounts of people and funds to develop and test specific unconventional weapons, and if they were to give or sell these weapons to terrorists, one of two things could happen — either the weapons would be traced back to them, or the weapons might be used someplace where the nation-state really didn’t want those weapons used. In theory, scientists recruited by sub-state groups could develop small quantities of military CB warfare agents, but the lack of access to fissile material would frustrate any ambitious engineer trying to build an improvised nuclear device.¶ There are other hypotheses as to why sub-state groups have been unable to obtain nuclear weapons and/or fissile material on the “global market.” It could be that, despite the available information about nuclear weapons, these groups haven’t developed the expertise, skills, or experience to design a nuclear weapon. It takes time, resources, and a secure facility to successfully develop such a weapon, and international efforts to combat terrorism may have been successful in stopping such efforts. It could be that the scientists and engineers who are attracted to sub-state groups are not capable of designing weapons. It is a particularly challenging task to take a particularly hazardous material, developed in a laboratory, and turn it into a reliable military weapon of mass destruction. Last, it could be that sub-state groups have been frustrated by the numerous black-market scams and intelligence sting operations, in which fraudulent persons claimed to have nuclear material.[9](javascript:void(0);)¶ Sub-state groups are interested in chemical, biological, radiological, and nuclear (CBRN) hazards, however, because senior political leaders and military leaders publicly state, over and over again, how dangerous a release of these materials would be to the American public. So of course terrorists are interested in CBRN hazards, but they don’t have the expertise to produce the specialized military warfare agents, they don’t have any training in handling or storing them, and they don’t understand how to deliver the agents to their targets with any degree of effectiveness. So one might see some attempts to steal chlorine gas cylinders from water treatment sites, some occasional attempts to produce ricin toxin from castor beans, stories about a few grams of radioactive material stolen from a facility — these are not materials that cause mass casualty events. But the fear persists, and so government leaders spend billions every year to reduce the already minute possibility that some sub-state group does develop or steal a nuclear weapon for the purposes of employing it against the United States. This leads to our public policy discussion: to understand how effectively the USG is performing in this case.

#### No nuclear retaliation even with nuclear forensics – logistical problems

Neely ‘13

(Meggaen Neely is a researcher for the Project on Nuclear Issues. “Doubting Deterrence of Nuclear Terrorism” MAR 21, 2013 <http://csis.org/blog/doubting-deterrence-nuclear-terrorism>, TSW)

Because of the difficulty of deterring transnational actors, many deterrence advocates shift the focus to deterring state sponsors of nuclear terrorism. The argument applies whether or not the state intended to assist nuclear terrorists. If terrorists obtain a nuclear weapon or fissile materials from a state, the theory goes, then the United States will track the weapon’s country of origin using nuclear forensics, and retaliate against that country. If this is U.S. policy, advocates predict that states will be deterred from assisting terrorists with their nuclear ambitions.¶ ¶ Yet, let’s think about the series of events that would play out if a terrorist organization detonated a weapon in the United States. Let’s assume forensics confirmed the weapon’s origin, and let’s assume, for argument’s sake, that country was Pakistan. Would the United States then retaliate with a nuclear strike? If a nuclear attack occurs within the next four years (a reasonable length of time for such predictions concerning current international and domestic politics), it seems unlikely.¶ ¶ Why? First, there’s the problem of time. Though nuclear forensics is useful, it takes time to analyze the data and determine the country of origin. Any justified response upon a state sponsor would not be swift. Second, even if the United States proved the country of origin, it would then be difficult to determine that Pakistan willingly and intentionally sponsored nuclear terrorism. If Pakistan did, then nuclear retaliation might be justified. However, if Pakistan did not, nuclear retaliation over unsecured nuclear materials would be a disproportionate response and potentially further detrimental. Should the United States launch a nuclear strike at Pakistan, Islamabad could see this as an initial hostility by the United States, and respond adversely. An obvious choice, given current tensions in South Asia, is for Pakistan to retaliate against a U.S. nuclear launch on its territory by initiating conflict with India, which could turn nuclear and increase the exchanges of nuclear weapons.¶ ¶ Hence, it seems more likely that, after the international outrage at a terrorist group’s nuclear detonation, the United States would attempt to stop the bleeding without a nuclear strike. Instead, some choices might include deploying forces to track down those that supported the suicide terrorists that detonated the weapon, pressuring Pakistan to exert its sovereignty over fringe regions such as the Federally Administered Tribal Areas, and increasing the number of drone strikes in Waziristan. Given the initial attack, such measures might understandably seem more of a concession than the retaliation called for by deterrence models, even more so by the American public.¶ ¶ This is not an argument against those technologies associated with nuclear forensics. The United States and International Atomic Energy Agency (IAEA) should continue their development and distribution.¶ ¶ Instead, I question the presumed American response that is promulgated by deterrence advocates. By looking at possibilities for a U.S. response to nuclear terrorism, a situation in which we assume that deterrence has failed, we cast doubt on the likelihood of a U.S. retaliatory nuclear strike and hence cast doubt on the credibility of a U.S. retaliatory nuclear strike as a deterrent. Would the United States launch a nuclear weapon now unless it was sure of another state’s intentional sponsorship of nuclear terrorism? Any reasonable doubt of sponsorship might stay the United States’ nuclear hand. Given the opaqueness of countries’ intentions, reasonable doubt over sponsorship is inevitable to some degree. Other countries are probably aware of U.S. hesitance in response to terrorists’ use of nuclear weapons. If this thought experiment is true, then the communication required for credible retaliatory strikes under deterrence of nuclear terrorism is missing.

#### No chance terrorists can pull off an attack

**Akram ‘12**

(Munir Akram is a former Pakistan ambassador to the UN. “Nuclear terror” accessed online August 24, 2012 at <http://dawn.com/2012/06/24/nuclear-terror/>, TSW)

Extensive bureaucratic and military machinery has been created within governments and at the UN to prevent the acquisition of nuclear weapons, materials or knowledge by terrorists and extremists.¶ Among states, Pakistan has encountered the greatest pressure to reassure the ‘international community’ that its nuclear weapons and materials are ‘safe’ and will not fall into the hands of terrorists and Islamic militants. Pakistan’s detractors next door and in western capitals have missed no opportunity to portray it as the most likely source of nuclear terrorism.¶ Nuclear weapons are devilishly complex to develop, deploy and use. India required five decades (1948-1998) to master the atomic bomb; Pakistan developed its capability over 24 years; North Korea acquired a primitive capability after 20 years.¶ Iran’s enrichment capacity has evolved in even slower motion. Terrorist organisations will find it virtually impossible to develop nuclear weapons by themselves.¶ No state is likely to share its nuclear weapons capability with non-state actors because their unaccountable use, or threat of use, of a nuclear weapon, would most certainly invite a retaliatory response endangering the very existence of the transferring state. Islamic jihadis may resort to suicide attacks; Islamic states are not suicidal.¶ Moreover, it is totally beyond the capability terrorist organisations to arm, aim and fire a nuclear weapon. These complex systems require the coordinated actions of an entire team of highly trained people to use them.¶ Numerous studies have established that if fissionable material were to be acquired, by theft or capture, by terrorists or other non-state actors, the most they could do with it is build and explode a radiation (dirty) bomb. Depending on population density, a dirty bomb’s casualties would number in the hundreds rather than thousands. In comparison, a ‘daisy-cutter’ — the conventional fire and concussion bomb used extensively in Afghanistan — would cause thousands of casualties¶ if dropped on a population centre.

#### Give a US-Russia war impact zero probability – politics, military superiority, economic concerns, and nuclear security all check war

Thomas Graham 7, senior advisor on Russia in the US National Security Council staff 2002-2007, September 2007, "Russia in Global Affairs” July - September 2007, The Dialectics of Strength and Weakness

<http://eng.globalaffairs.ru/numbers/20/1129.html>

An astute historian of Russia, Martin Malia, wrote several years ago that “Russia has at different times been demonized or divinized by Western opinion less because of her real role in Europe than because of the fears and frustrations, or hopes and aspirations, generated within European society by its own domestic problems.” Such is the case today. To be sure, mounting Western concerns about Russia are a consequence of Russian policies that appear to undermine Western interests, but they are also a reflection of declining confidence in our own abilities and the efficacy of our own policies. Ironically, this growing fear and distrust of Russia come at a time when Russia is arguably less threatening to the West, and the United States in particular, than it has been at any time since the end of the Second World War. Russia does not champion a totalitarian ideology intent on our destruction, its military poses no threat to sweep across Europe, its economic growth depends on constructive commercial relations with Europe, and its strategic arsenal – while still capable of annihilating the United States – is under more reliable control than it has been in the past fifteen years and the threat of a strategic strike approaches zero probability. Political gridlock in key Western countries, however, precludes the creativity, risk-taking, and subtlety needed to advance our interests on issues over which we are at odds with Russia while laying the basis for more constructive long-term relations with Russia.

#### Even a rapid conflict will end in peaceful negotiations-generals concede there would be no nuclear escalation

Colonel General Leonid **Ivashov**, President of the Academy of Geopolitical Problems. July 200**7** “WILL AMERICA FIGHT RUSSIA”. Defense and Security, No 78. LN

Ivashov: Numerous scenarios and options are possible. Everything may begin as a local conflict that will rapidly deteriorate into a total confrontation. An ultimatum will be sent to Russia: say, change the domestic policy because human rights are allegedly encroached on, or give Western businesses access to oil and gas fields. Russia will refuse and its objects (radars, air defense components, command posts, infrastructure) will be wiped out by guided missiles with conventional warheads and by aviation. Once this phase is over, an even stiffer ultimatum will be presented - demanding something up to the deployment of NATO "peacekeepers" on the territory of Russia. Refusal to bow to the demands will be met with a mass aviation and missile strike at Army and Navy assets, infrastructure, and objects of defense industry. NATO armies will invade Belarus and western Russia. Two turns of events may follow that. Moscow may accept the ultimatum through the use of some device that will help it save face. The acceptance will be followed by talks over the estrangement of the Kaliningrad enclave, parts of the Caucasus and Caspian region, international control over the Russian gas and oil complex, and NATO control over Russian nuclear forces. The second scenario involves a warning from the Kremlin to the United States that continuation of the aggression will trigger retaliation with the use of all weapons in nuclear arsenals. It will stop the war and put negotiations into motion.

#### Pakistan collapse Won’t happen.

Bandow 09- Senior Fellow @ Cato, former special assistant to Reagan (11/31/09, Doug, “Recognizing the Limits of American Power in Afghanistan,” Huffington Post, http://www.cato.org/pub\_display.php?pub\_id=10924)

From Pakistan's perspective, limiting the war on almost any terms would be better than prosecuting it for years, even to "victory," whatever that would mean. In fact, the least likely outcome is a takeover by widely unpopular Pakistani militants. The Pakistan military is the nation's strongest institution; while the army might not be able to rule alone, it can prevent any other force from ruling. Indeed, Bennett Ramberg made the important point: "Pakistan, Iran and the former Soviet republics to the north have demonstrated a brutal capacity to suppress political violence to ensure survival. This suggests that even were Afghanistan to become a terrorist haven, the neighborhood can adapt and resist." The results might not be pretty, but the region would not descend into chaos. In contrast, warned Bacevich: "To risk the stability of that nuclear-armed state in the vain hope of salvaging Afghanistan would be a terrible mistake."

### PQD

#### NPR didn’t codify the negligence doctrine

Warden 2010

(John K., visiting fellow CSIS, “What Does the Leaked Draft of the QDR Reveal About the NPR?” <http://csis.org/blog/what-does-leaked-draft-qdr-reveal-about-npr> - kurr)

The draft reiterates Obama’s previous commitment that as long as nuclear weapons exist, the United States will maintain an effective deterrent and extended deterrent. More specifically, it calls for the United States to maintain nuclear role in extended deterrence, while increasing close consultation with allies and utilizing missile defense. These are likely to be themes in the NPR as well.

The bullet about transferring materials is interesting. While making clear that the United States will respond to those who use WMDs and those who transfer WMDs, the bullet does not include retaliation against those that neglect their responsibilities in guarding nuclear or other materials. If this exclusion is intentional, it could signal a reversal of the so-called “negligence doctrine” (for more on negligence see Marko Beljac or Philipp Bleek).

#### A ruling makes war powers a justiciable issue – this case-specific exception causes a slippery slope that breaks the entire doctrine

Miller 10 (Mathew Edwin, JD – University of Michigan Law School, Associate – Latham & Watkins LLP, “The Right Issue, the Wrong Branch: Arguments against Adjudicating Climate Change Nuisance Claims,” Michigan Law Review, November, 109 Mich. L. Rev. 257, Lexis)

However, to say that cases like American Electric Power are justiciable just because plaintiffs allege a public nuisance begs the question: Why should such claims automatically be justiciable? It contravenes the purpose and articulation of the political question doctrine to suggest that nuisances are categorically justiciable because political questions have historically excluded torts between private parties and have focused instead on governmental issues like gerrymandering, foreign policy, and federal employment. n70 Again, Baker demanded "discriminating" case-by-case inquiries, rejecting "resolution by any semantic cataloguing." n71 Similarly, the fact that other public nuisance claims have not presented political questions in the past should not preclude such a finding in the climate context. n72 Indeed, the argument for nonjusticiability rests on the notion that climate suits are unique and therefore defy classification among tort precedent. n73

[\*271] Extending the political question doctrine to a public nuisance allegation would surpass precedent in terms of claim-category application. Yet with respect to the theory behind the doctrine, such an extension is proper because cases like American Electric Power would push existing nuisance law to embrace a complex, qualitatively unique phenomenon that cannot be prudentially adjudicated. n74 The Supreme Court has never held that torts cannot present political questions, so prudential constitutional principles should similarly apply to them. This Note simply argues that the facts, claims, parties, and relief demanded in this particular mode of litigation should fall under the nonjusticiability umbrella, wherever its limits may lie. n75 The following analysis of Baker invokes the American Electric Power situation specifically for the sake of convenience, but the arguments therein should be read to apply to injunctive climate nuisance claims generally.

[Continues to Footnore]

n75. This Note does not purport to suggest exactly where the line ought to be drawn in applying the political question doctrine to tort claims. A consideration of the potential doctrinal "slippery slope" - where courts might improperly refuse to adjudicate claims solely on the basis of complexity - is beyond the scope of the present discussion.

**No groupthink—executives are fragmented and pluralistic—Congress links harder**

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 46-47)

**The idea that Congress will**, on net, **weed out bad policies rests on an institutional comparison**. The president is elected by a national constituency on a winner-take-all basis (barring the remote chance that the Electoral College will matter), whereas Congress is a summation of local constituencies and thus affords more voice to political and racial minorities. At the level of political psychology, **decisionmaking within the executive is prone to** group polarization and other forms of **groupthink or irrational panic**,51 **whereas the internal diversity of legislative deliberation checks these forces**. At the level of political structure, Congress contains internal veto gates and chokepoints—consider the committee system and the fi libuster rule—that provide minorities an opportunity to block harmful policies, whereas executive decisionmaking is relatively centralized and unitary.

**The contrast is drawn too sharply, because in practice the executive is a they, not an it**. Presidential oversight is incapable of fully unifying executive branch policies, which means that **disagreement flourishes within the executive as well, dampening panic and groupthink** **and providing minorities with political redoubts**.52 Where a national majority is internally divided, **the structure of presidential politics creates chokepoints that can give racial or ideological minorities disproportionate influence, just as the legislative process does**. Consider the influence of Arab Americans in Michigan, often a swing state in presidential elections.

**It is not obvious**, then, **that statutory authorization makes any difference at all**. One possibility is that a large national majority dominates both Congress and the presidency and enacts panicky policies, oppresses minorities, or increases security in ways that have ratchet effects that are costly to reverse. If this is the case, a requirement of statutory authorization does not help. Another possibility is that there are internal institutional checks, within both the executive branch and Congress, on the adoption of panicky or oppressive policies and that democratic minorities have real infl uence in both arenas. If this is the case, then a requirement of authorization is not necessary and does no good. Authorization only makes a difference in the unlikely case where the executive is thoroughly panicky, or oppressively majoritarian, while Congress resists the stampede toward bad policies and safeguards the interests of oppressed minorities.

Even if that condition obtains, however, the argument for authorization goes wrong by failing to consider both sides of the normative ledger. As for majoritarian oppression, the multiplicity of veto gates within Congress may allow minorities to block harmful discrimination, but it also allows minorities to block policies and laws which, although targeted, are nonetheless good. As for panic and irrationality, **if Congress is more deliberative, one result will be to prevent groupthink and slow down stampedes toward bad policies, but another result will be to delay necessary emergency measures and slow down stampedes toward good policies**. **Proponents** of the authorization requirement sometimes **assume that** quick action, even **panicky action, always produces bad policies. But there is no necessary connection between these two things; expedited action is sometimes good, and panicky crowds can stampede either in the wrong direction or in the right direction. Slowing down the adoption of new policies through congressional oversight retards the adoption not only of bad policies, but also of good policies that need to be adopted quickly if they are to be effective**.

**Informal checks on groupthink are sufficient**

**Kennedy, 12** [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

**Neither the president nor the decision-making group members implement "hybrid" checks; the checks** do, however, originate in the executive branch and **directly affect the president** and the group members. **Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group.** Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong [\*676] to a larger organization - the executive branch - and thereby become part of the bureaucratic machine.

1. Inter-Agency Process

**The "inter-agency process**" check **involves getting approval** for**,** or opinions about, a proposed decision **from other agencies**. n252 **The inter-agency process is particularly common for national security and foreign policy decisions**. n253 "Occasionally, it will operate at a higher level in principals' committees involving Cabinet-level or sub-Cabinet people and their deputies," thus directly checking the decision-making group members. n254

2. Intra-Agency Process

**Another similar check is the "intra-agency process," in which the circulation of proposed decisions within the agency empowers dissidents and harnesses a diversity of thinking.** n255 If nothing else, **the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency.** n256

3. Agency or Lawyer Culture

**The culture of a particular agency** - the institutional self-awareness of its professionalism - **provides another check.** n257 "**Lawyer culture" - which places high value on competency and adherence to rules and laws - resides at the core of agency culture**; n258 its "nay-saying" objectivity "is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy." n259

[\*677]

4. Public Humiliation

**A final check in this category is the "public humiliation" check**. n260 **This check only comes into play when the previous three have failed, and involves the threat to ""go public' by leaking embarrassing information or publicly resigning."**

#### Courts can’t understand military needs – deference key to military readiness, heg, naval power, and military chain of command

Crittenden 3

(Roger L., Hon., Judge, Franklin Circuit Court, Kentucky Department of Military Affairs, and Kentucky National Guard, OPINION OF THE COURT BY JUSTICE GRAVES, March 5, <http://162.114.92.72/opinions/2001-SC-000761-MR.pdf>, p. 5 – 8)

As early as 1953, the Supreme Court determined that "[t]he military constitutes a specialized community governed by a separate discipline from that of the civilian."15 Since that time, in reviewing issues which deal with the armed forces, the Supreme Court has regularly referred to the military as a "separate community" and reviewed claims against the military differently from claims against any other governmental agency. Restrictions on constitutional rights which might have no rational basis in civilian society will survive in the military context because the unique war-making purpose of the armed forces makes such restrictions compelling."16 This attitude regarding constitutional rights is based upon the need to maintain an effectively operational fighting force."17 The distinct purpose of the armed forces is to protect the United States, and its interests, against the actions of foreign nation-states, through the use of force."18 It is because of this unique purpose that the military demands a respect for duty and a commitment to discipline that is without counterpart in civilian society."19 Military effectiveness in wartime, however, requires peacetime preparation. In order for soldiers, airmen and seamen to utilize those qualities necessary for success on the battlefield, with all its stress and anxiety, those qualities must be instinctive. Success in war is therefore contingent upon the development of those qualities in peacetime. The Supreme Court has stated that, "to accomplish its mission the military must foster instinctive obedience, unity, commitment and esprit de corps."20¶ This creates a "necessity," which the Supreme Court has recognized, for training and organizational latitude when dealing with military personnel and the military infrastructure. "The inescapable demands of military discipline and obedience to orders cannot be taught on battlefields; the habit of immediate compliance with military procedures and orders must be virtually reflex with no time for debate or reflection . . . . (C)onduct in combat inevitably reflects the training that precedes combat."21¶ The Supreme Court has long recognized that:¶ [T]he military is, by necessity, a specialized society separate from civilian society. We have also recognized that the military has, again by necessity, developed laws and traditions of its own during its long history. The differences between the military and civilian communities result from the fact that 'it is the primary business of the armies and navies to fight or be ready to fight wars should the occasion arise."22¶ A soldier in the Army is not free to quit his job, cannot be fired, and is subject to military discipline and military law.¶ The climate of "discipline and unquestioned obedience" necessary to sustain an effective fighting force is determined primarily by the professional judgments and experience of people familiar with military needs, and the Court has determined itself incapable of mastering the complexities which are considered when balancing constitutional rights against military functional necessity."23 In Chappell, the United States Supreme Court stated that "the special relationships that define military life have 'supported the military establishment's broad power to deal with its own personnel. The most obvious reason is that courts are ill-equipped to determine the impact upon discipline that any particular intrusion upon military authority might have."24 It would be imprudent to allow soldiers to sue superior officers because discipline and effectiveness would be seriously damaged. Permitting judicial intervention into such clearly administrative and personnel decisions would destroy the legitimacy and authority of command."25

## CP

### 2NC Overview

1. Middle east proliferation – Stout card says US hypocrisy both encourages Middle East proliferation and prevents the US from taking steps against Middle East prolif. CP is the only way to effectively combat this, impact is nuclear war:

Rosen, 2006, Professor of National Security and Military Affairs at Harvard (Stephen Peter, Foreign Affairs, "After Proliferation", Sept/Oct)

It gets worse. During the Cold War, most analysts considered it unlikely that nuclear weapons would be used during peacetime; they worried more about the possibility of a nuclear conflict somehow emerging out of a conventional war. That scenario would still be the most likely in a postproliferation future as well, but the frequency of conventional wars in the Middle East would make it a less comforting prospect. If a nuclear-armed ballistic missile were launched while conventional fighting involving non-nuclear-armed ballistic missiles was going on in the region, how confident would any government be that it could identify the party responsible? The difficulty would be greater still if an airplane or a cruise missile were used to deliver the nuclear weapon.

### A/T Condition CPs Bad

4. Key to test the opportunity cost of the plan – doing the plan trades off with using the potential plan as a way of pressuring Israel, this is key to rational thought

EconEdLink, No Date (http://www.econedlink.org/cyberteach/sample.cfm)

Opportunity cost is a fundamental concept in economics, which states that every economic choice has a cost. It further states that every choice has a cost because every choice involves a trade-off: you give up something in favor of your first choice. The very fact that you are able to choose means that there were alternatives to consider. When you choose to use your limited income for one thing, you give up other goods. When you choose to use your limited time one way, for example, seeing a movie, you give up other uses of that time, say, studying. The opportunity cost is defined and measured as the "best alternative foregone" when a choice is made. In other words, the opportunity cost is the next best thing, in your own view, that you could have done with your limited resources, your income or time, for example. This notion that resources are limited is an important aspect of the opportunity cost concept since, if resources were unlimited, you would not have to choose at all. The opportunity cost of a choice reflects the real consequences you expect will follow from making a particular decision. This cost is usually the difference between your first and second choices. Thus, evaluating the opportunity cost creates a recognition of the consequences - both benefits and costs - of a choice and helps you make an informed and rational decision. Some of these consequences may not be apparent for quite a while. Business and government decisions have opportunity costs as well, as their limited resources are needed to accomplish many tasks.

5. Neutron bomb proves there’s debate over eliminating or bargaining with weapons

Nuclear Files ‘9 (“The Neutron Bomb,” 8/11, http://www.nuclearfiles.org/menu/key-issues/nuclear-weapons/basics/neutron-bomb.htm)

Sam Cohen is considered the father of the neutron bomb. In the summer of 1958 he began investigating the possibility of large thermonuclear weapons. In his research, Cohen argued that if the uranium casing of a hydrogen bomb were removed, the neutrons released would travel great distances, penetrating even well-shielded structures with lethal doses of radiation and harming anyone inside. The idea of the neutron warhead has been hotly debated since its inception. At the time of its introduction, some felt that its relatively small initial blast and fallout was ideal for use in densely populated areas, like Europe. Other proponents argued that deployment of the neutron warhead could be used as a bargaining chip against the Soviet SS-20 missile which was viewed as a threat to NATO forces in Europe. Opponents of the weapon argued that the neutron bomb made the idea of using nuclear weapons in war more conceivable. Because the neutron bomb would devastate the whole of a target, military planners might not be as hesitant to use the neutron bomb as they would a standard fission bomb.

## Terror

### Retal

#### No retaliation –Obama won’t do it

Crowley 10 (Michael, Senior Editor – New Republic, “Obama and Nuclear Deterrence”, The New Republic, 1-5,<http://www.tnr.com/node/72263>)

As the story notes, some experts don't place much weight on how our publicly-stated doctrine emerges because they don't expect foreign nations to take it literally. And the reality is that any decisions about using nukes will certainly be case-by-case. But I'd still like to see some wider discussion of the underlying questions, which are among the most consequential that policymakers can consider. The questions are particularly vexing when it comes to terrorist groups and rogue states. Would we, for instance, actually nuke Pyongyang if it sold a weapon to terrorists who used it in America? That implied threat seems to exist, but I actually doubt that a President Obama--or any president, for that matter--would go through with it.

### 2NC- No Nuke Terrorism (long extension)

## Neglgience PQD

# Counterplan

### AT Object Fiat

#### And, it matches the academic debate

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

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

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1¶ These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

# DA

### 2NC Overview

#### B. [2ac conceded] sanctions increase Iran prolif - that’s 1nc World Tribune – [no new 1ar answers] - that spills over and goes nuclear

Edelman 11

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

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

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.¶ There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.¶ n-player competition¶ Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

#### C. We control timeframe – sanctions cause a global nuclear war in months

Press TV 11/13

“Global nuclear conflict between US, Russia, China likely if Iran talks fail”, <http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.¶ “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned. ¶ The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war. ¶ White House press secretary Jay Carney called on Congress to allow more time for diplomacy as US lawmakers are considering tougher sanctions. ¶ "This is a decision to support diplomacy and a possible peaceful resolution to this issue," Carney said. "The American people do not want a march to war." ¶ Meanwhile, US Secretary of State John Kerry is set to meet with the Senate Banking Committee on Wednesday to hold off on more sanctions on the Iranian economy. ¶ State Department spokeswoman Jen Psaki said Kerry "will be clear that putting new sanctions in place would be a mistake." ¶ "While we are still determining if there is a diplomatic path forward, what we are asking for right now is a pause, a temporary pause in sanctions. We are not taking away sanctions. We are not rolling them back," Psaki added.

#### D. DA turns case case – sets a precedent to delegate authority – draws us into war

**Richman, 12/29/13** (Sheldon, Counterpunch, “AIPAC's Stranglehold Congress Must Not Cede Its War Power to Israel”, <http://www.counterpunch.org/2013/12/27/congress-must-not-cede-its-war-power-to-israel/>)

The American people should know that pending right now in Congress is a bipartisan bill that would virtually commit the United States to go to war against Iran if Israel attacks the Islamic Republic. “The bill outsources any decision about resort to military action to the government of Israel,” Columbia University Iran expert Gary Sick wrote to Sen. Chuck Schumer (D-NY) in protest, one of the bill’s principal sponsors.¶ The mind boggles at the thought that Congress would let a foreign government decide when America goes to war, so here is the language (PDF):¶ If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military and economic support to the Government of Israel in its defense of its territory, people and existence.¶ This section is legally nonbinding, but given the clout of the bill’s chief supporter outside of Congress — the American-Israel Public Affairs Committee (AIPAC [PDF]), leader of the pro-Israel lobby — that is a mere formality.¶ Since AIPAC wants this bill passed, it follows that so does the government of Israeli Prime Minister Benjamin Netanyahu, who opposes American negotiations with Iran and has repeatedly threatened to attack the Islamic Republic. Against all evidence, Netanyahu insists the purpose of Iran’s nuclear program is to build a weapon with which to attack Israel. Iran says its facilities, which are routinely inspected, are for peaceful civilian purposes: the generation of electricity and the production of medical isotopes.¶ The bill, whose other principal sponsors are Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL), has a total of 26 Senate cosponsors. If it passes when the Senate reconvenes in January, it could provoke a historic conflict between Congress and President Obama, whose administration is engaged in negotiations with Iran at this time. Aside from declaring that the U.S. government should assist Israel if it attacks Iran, the bill would also impose new economic sanctions on the Iranian people. Obama has asked the Senate not to impose additional sanctions while his administration and five other governments are negotiating with Iran on a permanent settlement of the nuclear issue.¶ A six-month interim agreement is now in force, one provision of which prohibits new sanctions on Iran. “The [Menendez-Schumer-Kirk] bill allows Obama to waive the new sanctions during the current talks by certifying every 30 days that Iran is complying with the Geneva deal and negotiating in good faith on a final agreement,” Ali Gharib writes at Foreign Policy magazine. That would effectively give Congress the power to undermine negotiations. As Iran’s foreign minister, Javad Zarif, told Time magazine, if Congress imposes new sanctions, even if they are delayed for six months, “The entire deal is dead. We do not like to negotiate under duress.”¶ Clearly, the bill is designed to destroy the talks with Iran, which is bending over backward to demonstrate that its nuclear program has no military aims.

E. Turns aff advantages –

Subpoint A. Is Pakistan, obviously our White evidence indicates a regional conflagaration that would cause instability in Pakistan.

Subpoint B is Russia - The US and Russia have competing interests in Iran, meaning that a US strike would probably be a proximate cause of conflict between the two.

Subpoint C. Is group think – all of their 1AC evidence assumes that in the event of a conflict, congress would cede authority to the president, meaning that he and his advisors get to create all of the strategy.

### AT: Rajabova –

#### Deal will be approved on Iran’s side---Rouhani will overcome conservative opposition

Al-Jazeera 1-7, “Iran's Rouhani defends nuclear deal,” 1/7/14, http://www.aljazeera.com/news/middleeast/2014/01/iran-rouhani-defends-nuclear-deal-201417113340152307.html

Iran's President Hassan Rouhani has defended a nuclear deal with world powers amid continued domestic criticism. ¶ Rouhani said on Tuesday that the deal, which promises moderate sanction relief in return for temporarily curbing Iran's nuclear drive, would not be derailed by opposition in government. ¶ "It required brave decision-making ... We should not and do not fear the fuss made by the few people or a small percentage", Rouhani said in remarks broadcast live on state television. ¶ "The initial agreement with the six major powers on the nuclear issue was not a simple task but very difficult and complicated," he said. ¶ Rouhani's defence came after repeated criticism by opposition in parliament and the powerful Revolutionary Guards of the deal signed in November. ¶ The agreement requires Iran to roll back parts of its nuclear drive for six months, in exchange for modest sanctions relief and a promise by Western powers not to impose new sanctions. ¶ Critics have primarily questioned if the Islamic Republic benefits from the deal, and if fewer concessions could have been made by the negotiating team, led by Mohammad Javad Zarif, Iran's foreign minister. ¶ In recent weeks, elements in the conservative-dominated parliament have sought to form a committee to supervise the negotiating process but to no avail. ¶ However, Rouhani appears to enjoy the backing of supreme leader Ayatollah Ali Khamenei, who retains control of all final decisions regarding the matter. ¶ "In all important and sensitive steps along the way, the supreme leader has backed the government and its policies," Rouhani said. ¶ Iran's economy has been hard hit by international sanctions, while the vital oil exports have been more than halved by US and European embargoes. ¶ The deal - which is yet to come into force- is aimed at creating a window of diplomatic opportunity for Iran and the P5+1 group of world powers, comprising the US, Britain, France, China and Russia plus Germany, to find a lasting solution to the decade-long standoff over Iran's nuclear activities. ¶ In Tehran, meanwhile, legislators are readying a bill that would oblige the government to enrich uranium to 60 percent if Iran is hit by new sanctions.¶ Talks to remove remaining obstacles before the deal is implemented will resume in Geneva, Switzerland, on Thursday.

#### Hard-liners are on board --- recent change in talk strategy

AP 12/31/13, Associated Press, “Iran Hard-Liners Join Team of Nuclear Negotiators,” ABC News, http://abcnews.go.com/International/wireStory/report-iran-deal-reached-nuclear-details-21379226

Iran has boosted its team in charge of nuclear talks with world powers, adding what are believed to be hard-liners and conservatives in an apparent effort to silence critics of the landmark interim accord reached in Geneva in November.¶ The semi-official news agencies Fars and Mehr reported on Wednesday that new members have joined the high council, which directs strategies in the talks and which is led by the country's moderate President Hassan Rouhani and Foreign Minister Mohammad Javad Zarif.¶ The agencies did not identify the new members, saying only that representatives of "all branches of power and other senior figures" are now on the council.¶ The development comes a day after Iran and Western negotiators reported they were nearing an understanding on the details of implementing the Geneva accord.¶ The deal puts strong limits on Iran's uranium enrichment program in return for an easing of some international sanctions on Tehran for six months while a permanent deal is negotiated. The United States and its allies believe Iran's nuclear program is aimed at producing a nuclear weapon, a claim that Tehran denies, saying it is intended only for peaceful purposes.¶ Over the past month, experts from Iran and the so-called "5+1" countries — the U.S., Britain, France, Russia, China and Germany — have held several rounds of talks in Geneva to work out details on carrying out the agreement. The most recent session was on Monday, and on Tuesday, both sides reported progress in the talks.¶ Rouhani has faced criticism from hard-liners at home over the Geneva deal, with many claiming the contents of the talks were kept secret and that they were excluded from the process. Some have called it a "poison chalice" for Iran.¶ Zarif has defended the process, saying Iran's top leadership had approved the Geneva deal in its entirety ahead of the signing but that the secrecy on the content was necessary to ensure the talks would not be derailed.¶ "The team advising on nuclear negotiations will be strengthened for the next round of talks," prominent hard-line lawmaker Ismaeil Kowsari was quoted by Mehr as saying. "Things were not in our favor in the previous round, as they should have been."¶ Iranian hard-liners believe Tehran has offered too many concessions in return for too little in the Geneva deal. But Supreme Leader Ayatollah Ali Khamenei, who has the final say on all state matters, has backed the nuclear negotiating team, even calling its members "sons of the Revolution."

#### Talks progressing - mutual understanding now

Rafizadeh 1-3-14

(an Iranian-American political scientist and scholar, is president of the International American Council and he serves on the board of Harvard International Review at Harvard University. Rafizadeh is also a senior fellow at Nonviolence International Organization based in Washington DC and a member of the Gulf project at Columbia University. He is originally from the Islamic Republic of Iran and Syria. He has been a recipient of several scholarships and fellowship including from Oxford University, Annenberg University, University of California Santa Barbara, and Fulbright Teaching program. He served as ambassador for the National Iranian-American Council based in Washington DC, conducted research at Woodrow Wilson International Center for Scholars, and taught at University of California Santa Barbara through Fulbright Teaching Scholarship.)**¶** <http://english.alarabiya.net/en/views/news/middle-east/2014/01/03/Hardliners-strike-back-in-the-third-round-of-Iran-s-nuclear-talks.html>

This week, several news agencies in Iran, including the Fars news agency, reported that officials of the Islamic Republic of Iran have made progress with the six world powers and reached an understanding on the details and nuances of how to implement this November’s provisional nuclear deal. In addition, Iran’s semi-official ISNA news agency released a report this week, quoting Hamid Baidinejad, a nuclear negotiator, as saying that Iran and the P5+1 had “achieved mutual understanding on implementation the nuclear deal.” The report also pointed out that Baidinejad said the deal will likely be implemented in late January. Additionally, Iran’s lead negotiator Abbas Araqchi made announcements that, according to the official news agency IRNA, state “the two sides have made good progress on different issues.” These comments came after the third round of nuclear negotiations continued throughout the night until early Tuesday morning in Geneva.

They follow Obama on Iran - empirics

Kredo 12-13-13

<http://freebeacon.com/stats-obama-administration-paused-iran-sanctions-for-rouhani/>

New statistics indicate that the Obama administration intentionally refrained from sanctioning Iran following the June election of President Hassan Rouhani, lending credence to multiple reports that the White House began secretly courting Tehran from the first moments of Rouhani’s presidency.¶ Prior to Rouhani’s June 14 election, the U.S. Treasury Department issued 10 sanction announcements targeting a total of 183 entities that were aiding and abetting Iran’s rogue oil trade and its nuclear weapons program, according to statistics compiled from publicly available releases on the Treasury’s website.¶ New designations were issued each month from February to June 4, including six in the month of May alone.¶ However, just two announcements targeting a total of 29 rogue entities were issued following Rouhani’s election, which was accompanied by a three-month silence from the Treasury Department.¶ Treasury did not issue a new designation until Sept. 6, and it targeted some 10 rogue entities.¶ The second announcement was made on Thursday morning, after Democrats and Republicans on Capitol Hill lashed out at the White House for killing a new sanctions measure that was on the cusp of passing the Senate.¶ The stark contrast in the Obama administration’s approach on the sanctions front led some Iran experts to suggest that the White House shifted its policy in an attempt to woo the Rouhani administration before public talks that led to a recently inked nuclear accord.¶ “The Treasury folks have typically been warriors in this effort,” said United Against Nuclear Iran spokesman Nathan Carleton. “It seems incredibly likely that this change reflects the White House and State’s efforts to reach out to the Iranians following Rouhani’s election.”¶ “Obviously, this is a dramatic difference, and it suggests a policy change,” added UANI research director Matan Shamir, who has been tracking U.S. sanctions of Iran for months.

### AT: Hibbs

#### New sanctions collapse negotiations --- they’ll solve war now

Gharib 12/18**/**13(Ali, The Cable – a Foreign Policy blog, “Exclusive: Top Senate Democrats Break with White House and Circulate New Iran Sanctions Bill” <http://thecable.foreignpolicy.com/posts/2013/12/18/exclusive_top_senate_democrats_break_with_white_house_and_circulate_new_iran_sancti>)

Critics of imposing new sanctions fear that the bill will violate either the spirit or the letter of the Joint Plan of Action signed in Geneva. The interim deal allows some flexibility, mandating that "the U.S. administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions." Administration officials have mounted a so-far successful effort to stall new sanctions in the Senate. (The House overwhelmingly passed new sanctions in the summer.) Previous rumors of a bill in the Senate were said to contain a six-month delay that would prevent the legislation from taking effect while talks continued, but this iteration of the legislation doesn't contain that kind of fail-safe. Asked this month by Time what would happen if a bill, even with a delay, passed Congress, Iran's Foreign Minister Javad Zarif said, "The entire deal is dead."¶ "The law as written comes close to violating the letter [of the Geneva agreement] since the sanctions go into effect immediately unless the administration immediately waives them," said Colin Kahl, who stepped down in 2011\* as the Pentagon's top Mideast policy official. "There is no question the legislation violates the spirit of the Geneva agreement and it would undoubtedly be seen by the Iranians that way, giving ammunition to hard-liners and other spoilers looking to derail further progress."¶ Though a fact-sheet circulating with the new bill says it "does not violate the Joint Plan of Action," critics allege it would mark a defeat for the administration and the broader push for a diplomatic solution to the Iran crisis.¶ "It would kill the talks, invalidate the interim deal to freeze Iran's nuclear program, and pledge U.S. military and economic support for an Israel-led war on Iran," said Jamal Abdi, the policy director for the Washington-based National Iranian American Council, a group that supports diplomatic efforts to head off the Iranian nuclear crisis. "There is no better way to cut Iranian moderates down, empower hardliners who want to kill the talks, and ensure that this standoff ends with war instead of a deal."¶ The bill would in effect set up a direct confrontation with the White House, which is negotiating a final deal with Tehran that would allow for continued Iranian enrichment capabilities. According to the agreement, the comprehensive deal would "involve a mutually defined enrichment program" with strict curbs. In a forum this month at the Brookings Institution, Obama dismissed the possibility that Tehran would agree to a deal that eliminated Iran's entire nuclear program or its domestic enrichment capabilities.¶ "If we could create an option in which Iran eliminated every single nut and bolt of their nuclear program, and foreswore the possibility of ever having a nuclear program, and, for that matter, got rid of all its military capabilities, I would take it," Obama said. "That particular option is not available." Asked again about not allowing any Iranian enrichment, Obama quipped, to laughter from the audience, "One can envision an ideal world in which Iran said, 'We'll destroy every element and facility and you name it, it's all gone.' I can envision a world in which Congress passed every one of my bills that I put forward. I mean, there are a lot of things that I can envision that would be wonderful."¶ Alireza Nader, an Iran analyst at the RAND Corporation, agreed dismantling Iran's entire nuclear program would be "pretty unrealistic." He added such an aim would be moving "backward": "The Geneva agreement basically states that if Iran is more transparent regarding its nuclear program and intentions, then it can be met with sanctions relief. That's the goal: transparency."¶ Nader said that diplomacy required flexibility from both sides, something the legislation doesn't seem to contain. "When you have these kinds of bills, it shows that there are those in the U.S. who don't want to be flexible," he said.

### AT: Goldberg

#### TWO: Implementation guarantees the link - translating decisions into action is highly politicized

Johnson 99

Charles A. Johnson, Professor of Political Science @ Texas A&M University, and Bradley C. Canon, Professor of Political Science @ University of Kentucky, JUDICIAL POLICIES: IMPLEMENTATION AND IMPACT, 1999, p.3-4

Political actors and institutions who follow through on these decisions make the judicial policy. Certainly, the judges who enforced desegregation in southern school districts or busing decisions anywhere were subject to political pressures from a variety of sources. Similar pressures affected school board decisions regarding the role of religion in schools. Even presidential politics may become intertwined with judicial policies, as did Richard Nixon's 1968 "law and order" presidential campaign criticizing the Supreme Court's criminal justice decisions or the explosive issue of abortion in the 1980 presidential election. Like the Congress, the Supreme Court and lower courts must rely on others to translate policy into action. And like the processes of formulating legislative, executive, and judicial policies, the process of translating those decisions into action is often a political one subject to a variety of pressures from a variety of political actors in the system.

#### THREE: The plan creates a partisan pushback against Obama – derails his agenda

Shane 11

Shane, Ohio State law school chair 2011¶ (Peter, “ARTICLE: The Obama Administration and the Prospects for a Democratic Presidency in a Post-9/11 World”, 56 N.Y.L. Sch. L. Rev. 27, lexis)

The second is politics. With the country still grappling with the effects of a devastating recession, as well as the need for pressing action on healthcare, climate change, and immigration, the President might well want to avoid the appearance of diluting his focus. Moreover, since the Johnson administration, Republicans have consistently--and with some success--cowed the Democrats by portraying them as soft on national security issues. The partisan pushback against any Obama administration effort to reinvigorate the rule of law in the national security context is likely to be vicious, threatening to erode whatever modicum of goodwill might otherwise be available to accomplish seemingly more concrete and immediate objectives. This, of course, is not hypothetical. We can see it in Republican efforts to derail the closing of Guantanamo and in proposals to prohibit the trial of foreign terrorists in civilian courts n108--a practice that Republicans seemed happier to live with under George W. Bush. n109

#### FOUR: **Losers lose - the plan saps capital and causes defections**

Loomis 7

Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

### AT: Rosenberg 91

#### Obama receives blame for controversial court decisions---Kagan and Sotomayor

Mirengoff 10

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The other thing I found interesting was the degree to which Democrats used the hearings to attack the "Roberts Court." I don't recall either party going this much on the offensive in this respect during the last three sets of hearings. What explains this development? My view is that liberal Democratic politicians (and members of their base) think they lost the argument during the last three confirmation battles. John Roberts and Samuel Alito "played" well, and Sonia Sotomayor sounded like a conservative. The resulting frustration probably induced the Democrats to be more aggressive in general and, in particular, to try to discredit Roberts and Alito by claiming they are not the jurists they appeared to be when they made such a good impression on the public. I'm pretty sure the strategy didn't work. First, as I said, these hearings seem not to have attracted much attention. Second, Senate Democrats are unpopular right now, so their attacks on members of a more popular institution are not likely to resonate. Third, those who watched until the bitter end saw Ed Whelan, Robert Alt and others persuasively counter the alleged examples of "judicial activism" by the Roberts Court relied upon by the Democrats -- e.g., the Ledbetter case, which the Democrats continue grossly to mischaracterize. There's a chance that the Democrats' latest **partisan innovation** will **come back to haunt them**. Justice Sotomayor and soon-to-be Justice Kagan are on record having articulated a **traditional, fairly minimalist view of the role of judges**. If a liberal majority were to emerge -- or even **if the liberals prevail in a few high profile cases** -- the charge of "deceptive testimony" could be turned against them. And if Barack **Obama** is still president at that time, he likely **will receive** some of **the blame**.

#### The Court’s not insulated from politics anymore – public opinion proves

Wittes 07

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Yes, the justices may be tackling hot-button issues like race in school placement and partial-birth abortion. Yes, conservatives may shriek about judicial activism and liberals may wring their hands that the sky is falling and that *Roe v. Wade* hangs by a thread. But the public isn't buying any of it. The court has some serious Teflon. Or not. When Gallup's pollsters ask a slightly different question, they get a dramatically different figure. Gallup this month released polling data

on public confidence in American institutions, including the Supreme Court. Only 34 percent of those surveyed reported having "a great deal" or "quite a lot" of confidence in the court. This figure is the lowest since Gallup started tracking this particular metric back in 1973. The Court's confidence rating has only once before dipped below 40 percent. Yet in the past few years, confidence in the Court has been in steep decline. If you take these numbers seriously, the Court has an incipient legitimacy crisis on its hands. So which is it? Are Americans somehow losing confidence in their Court or cheering it on? My guess is that they're doing both at the same time. The Court's high approval rating is certainly no aberration. In Gallup polling, it has fluctuated since 2000 from a high of 62 percent to an outlying and never-repeated low of 42 percent, most often falling somewhere between 50 and 60 percent. Gallup actually polled the Court's approval twice in May. The first time, using the usual formulation, the Court garnered 51 percent approval; the second time, using a slightly different question, the figure was even higher, at 63 percent, including 55 percent of Democrats. By contrast, only 8 percent of Democrats approve of Bush's performance. Other recent polls likewise suggest significant public contentment with the Court's job performance. Quinnipiac University's most recent poll has the Court at 58 percent. A CBS News/*New York Times* poll in March showed that 44 percent of Americans think that Bush's nominees to the Court have been "about right" politically, with 24 percent thinking they were too conservative and 17 percent thinking they were not conservative enough. A Gallup poll last fall found a similar plurality (43 percent) thinking the Court's politics were "about right," with 31 percent believing it "too conservative" and 21 percent believing it "too liberal." The Court's approval rating tends to stay high because its actions stray much less from the center of gravity of American politics than either its conservative or liberal critics imagine. Partial-birth abortion laws may offend liberal constituencies, but they are overwhelmingly popular with the public at large, for example. Social conservatives may get riled up in defense of sodomy laws, but the public doesn't. In the most important and high-profile cases, the Court has quite simply has not taken dramatic steps that deeply offend the majority of Americans. In many ways, in fact, it reflects the center of gravity of American politics better than either party's caucus in either house of Congress. So how then to understand the declining institutional confidence figure? This number has shown more decided trends over time--and since 2002 the trend has been a sharp and continuous decline. Confidence in the Court rose steadily over the course of the 1990s, from its previous trough of 39 percent in 1991 to around 50 percent in 1997; it stayed in that range through June 2002, weathering the firestorm around *Bush v. Gore* without much of a flicker. But then it started falling. One could simply dismiss this drop. It comes amid a much-broader decline in public confidence in institutions over the same period. In the same Gallup poll that this month showed confidence in the Court eroding to record lows, for example, confidence in Congress had plummeted to an all-time low of 14 percent, and the presidency, the press, labor unions, the medical system, and the criminal justice system all took hits too. It is possible that confidence in the Court is being dragged down by collapsing confidence in institutions in general. People are grouchy, this explanation might go, and the Court is feeling their wrath a lot less than are other institutions. Interestingly, other confidence measures concerning the Court have not shown the same degree of slippage; when Gallup asks about confidence in "the judicial branch, headed by the U.S. Supreme Court" and allows respondents to express a "fair amount" of confidence, the confidence rating skyrockets and the decline seems far less dramatic. Maybe this one particular trend line is just noise. But there is, at least, some reason to take it more seriously than that. For one thing, it's been going on for the past five years. For another, it coincides with a protracted period in which the Court has presented itself as just another polarized institution in American life. The justices split 5-to-4 along ideological lines in case after case, writing bitter opinions laden with political-sounding rhetoric. Both Democrats and Republicans fight over the Court, and the lower courts for that matter, as though they were simply a political prize, rather than a branch of government supposedly outside of politics. One has to worry, at least a little bit, that the Court's institutional prestige is suffering as a consequence. Earlier in this Supreme Court term, TNR's Jeffrey Rosen published an interview with Chief Justice John Roberts in which Roberts fretted about the tendency of justices to write separate opinions and to make a fetish of their own jurisprudence, rather than the jurisprudence of the Court as a whole. "If the Court in [Chief Justice John] Marshall's era had issued decisions in important cases the way this Court has over the part thirty years, we would not have a Supreme Court today of the sort that we have," he said. "That suggests that what the Court's been doing over the past thirty years has been eroding, to some extent, the capital that Marshall built up." Perhaps it is this erosion that the declining institutional confidence rating is capturing--even as the continued high approval rating captures a general public satisfaction with the substance of what the Court is actually doing. One can, after all, harbor no special anxiety about the aggregate direction of the Court's decisions and still find oneself disgusted by the oh-so-predictable manner in which the justices have been dividing--and will likely divide in coming cases about campaign finance and race-conscious public school placements. One can agree with a lot of what the Court does, in other words, and still recognize that this is not, in fact, an institution insulated from the grime.