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#### Interpretation –

#### Introduction of “United States Armed Forces” only means personnel

Eric Lorber – January 2013, EXECUTIVE WARMAKING AUTHORITY AND OFFENSIVE CYBER OPERATIONS: CAN EXISTING LEGISLATION SUCCESSFULLY CONSTRAIN PRESIDENTIAL POWER?, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, JOURNAL OF CONSTITUTIONAL LAW Vol. 15:3 , https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013

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,”172 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.”173 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.”174 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,175 particularly in the recent Libyan conflict,176 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,177 an examination of the legislative history,178 and the broad policy purposes behind the creation of the Act,179 “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.”180 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.181 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.”182 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 nonmembers constituting armed forces).183 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.

#### Violation – Offensive use of military force is broader than “introduction of armed forces” – plan includes weapons

Horace B. Robertson, Jr. – 1997/1998, Rear Admiral Horace B. Robertson, Jr., U.S. Navy (Ret.), United States Air Force Academy Journal of Legal Studies, 8 USAFA J. Leg. Stud. 35

The term "attacks" is also used in a broader sense than is traditionally meant in military parlance, where the term was generally used to describe the use of military force in an offensive action, particularly the launching of weapons against the enemy. As defined in Article 49, "'Attacks' means acts of violence against the adversary, whether in offense or in defense."

#### Vote Neg –

#### Predictable limits – The United States has hundreds of different weapons systems that could be deployed by any of the 4 services across over 200 countries

#### Ground –there’s no disadvantage to repositioning a forward-deployed systems

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#### **asking how the executive should be allowed to conduct war masks the fundamental question of whether war should be allowed at all – ensures a military mentality**

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 22-23)

The widespread, unquestioning acceptance of warism and the corresponding reluctance to consider pacifism as a legitimate option make it difficult to propose a genuine consideration of pacifist alternatives. Warism may be held implicitly or explicitly. Held in its implicit form, it does not occur to the warist to challenge the view that war is morally justified; war is taken to be natural and normal. No other way of understanding large-scale human conflict even comes to mind. In this sense warism is like racism, sexism, and homophobia: a prejudicial bias built into conceptions and judgments without the awareness of those assuming it. In its explicit form, warism is openly accepted, articulated, and deliberately chosen as a value judgment on nations in conflict. War may be defended as essential for justice, needed for national security, as “the only thing the enemy understands,” and so on. In both forms warism misguides judgments and institutions by reinforcing the necessity and inevitability of war and precluding alternatives. Whether held implicitly or explicitly, warism obstructs questioning the conceptual framework of the culture. If we assume (without realizing it) that war itself is morally justifiable, our moral considerations of war will be focused on whether a particular war is justified or whether particular acts within a given war are morally acceptable. These are important concerns, but addressing them does not get at the fundamental issue raised by the pacifist: the morality of war as such. In Just and Unjust Wars Michael Walzer explains that “war is always judged twice, first with reference to the reasons states have for fighting, secondly with reference to the means they adopt.”8 The pacifist suggestion is that there is a third judgment of war that must be made prior to the other two: might war, by its very nature, be morally wrong? This issue is considered by Walzer only as an afterthought in an appendix, where it is dismissed as naïve. Perhaps Walzer should not be faulted for this omission, since he defines his task as describing the conventional morality of war and, as has been argued above, conventional morality does take warism for granted. To this extent Walzer is correct. And this is just the point: our warist conceptual frameworks— our warist normative lenses— blind us to the root question. The concern of pacifists is to expose the hidden warist bias and not merely describe cultural values. Pacifists seek to examine cultural values and recommend what they ought to be. This is why the pacifist insists on judging war in itself, a judgment more fundamental than the more limited assessments of the morality of a given war or the morality of specific acts within a particular war.

#### this mindset is important – our consciousness of war guarantees endless violence that ensures planetary destruction and structural violence

Lawrence 9 (Grant, “Military Industrial "War" Consciousness Responsible for Economic and Social Collapse,” OEN—OpEdNews, March 27)

As a presidential candidate, [Barack Obama](http://obama.senate.gov/) called [Afghanistan](http://en.wikipedia.org/wiki/War_in_Afghanistan_%282001%E2%80%93present%29) ''the war we must win.'' He was absolutely right. Now it is time to win it... Senators [John McCain](http://www.imdb.com/name/nm0564587/) and Joseph Lieberman [calling](http://www.miamiherald.com/opinion/inbox/story/960269.html) for an expanded war in Afghanistan "How true it is that war can destroy everything of value." Pope Benedict XVI [decrying](http://www.google.com/hostednews/afp/article/ALeqM5iuue8kE-e0lYZVFpt4RlbX4M_IEw) the suffering of Africa Where troops have been quartered, brambles and thorns spring up. In the track of great armies there must follow lean years. Lao Tzu on [War](http://www.sacred-texts.com/tao/salt/salt09.htm) As Americans we are raised on the utility of war to conquer every problem. We have a drug problem so we wage war on it. We have a cancer problem so we wage war on it. We have a crime problem so we wage war on it. Poverty cannot be dealt with but it has to be warred against. Terror is another problem that must be warred against. In the [United States](http://maps.google.com/maps?ll=38.8833333333,-77.0166666667&spn=10.0,10.0&q=38.8833333333,-77.0166666667%20%28United%20States%29&t=h), solutions can only be found in terms of wars. In a society that functions to support a massive military industrial war machine and empire, it is important that the terms promoted support the conditioning of its citizens. We are conditioned to see war as the solution to major social ills and major political disagreements. That way when we see so much of our resources devoted to war then we don't question the utility of it. The term "war" excites mind and body and creates a fear mentality that looks at life in terms of attack. In war, there has to be an attack and a must win attitude to carry us to victory. But is this war mentality working for us? In an age when nearly half of our tax money goes to support the war machine and a good deal of the rest is going to support the elite that control the war machine, we can see that our present war mentality is not working. Our values have been so perverted by our war mentality that we see sex as sinful but killing as entertainment. Our society is dripping violence. The violence is fed by poverty, social injustice, the break down of family and community that also arises from economic injustice, and by the managed media. The cycle of violence that exists in our society exists because it is useful to those that control society. It is easier to sell the war machine when your population is conditioned to violence. Our military industrial consciousness may not be working for nearly all of the life of the planet but it does work for the very few that are the master manipulators of our values and our consciousness. Rupert Murdoch, the media monopoly man that runs the "Fair and Balanced" [Fox Network](http://www.fox.com/), Sky Television, and [News Corp](http://www.newscorp.com/) just to name a few, [had](http://en.wikipedia.org/wiki/Rupert_Murdoch) all of his 175 newspapers editorialize in favor of the [Iraq war](http://en.wikipedia.org/wiki/Iraq_War). Murdoch snickers when [he says](http://www.newscorpse.com/ncWP/?p=341) "we tried" to manipulate public opinion." The Iraq war was a good war to Murdoch [because,](http://www.americanprogress.org/issues/2004/07/b122948.html) "The death toll, certainly of Americans there, by the terms of any previous war are quite minute." But, to the media manipulators, the phony politicos, the military industrial elite, a million dead Iraqis are not to be considered. War is big business and it is supported by a war consciousness that allows it to prosper. That is why more war in Afghanistan, the war on Palestinians, and the other wars around the planet in which the [military industrial complex](http://en.wikipedia.org/wiki/Military-industrial_complex) builds massive wealth and power will continue. The military industrial war mentality is not only killing, maiming, and destroying but it is also contributing to the present social and economic collapse. As mentioned previously, the massive wealth transfer that occurs when the American people give half of their money to support death and destruction is money that could have gone to support a just society. It is no accident that after years of war and preparing for war, our society is crumbling. Science and technological resources along with economic and natural resources have been squandered in the never-ending pursuit of enemies. All of that energy could have been utilized for the good of humanity, ¶ instead of maintaining the power positions of the very few super wealthy. So the suffering that we give is ultimately the suffering we get. Humans want to believe that they can escape the consciousness that they live in. But that consciousness determines what we experience and how we live. As long as we choose to live in "War" in our minds then we will continue to get "War" in our lives. When humanity chooses to wage peace on the world then there will be a flowering of life. But until then we will be forced to live the life our present war consciousness is creating.

#### The alternative must begin in our minds – we need to free ourselves of the presumption towards war and advocate for peace and social justice to stop the flow of militarism that threatens existence

Demenchonok 9 – Worked as a senior researcher at the Institute of Philosophy of the Russian Academy of Sciences, Moscow, and is currently a Professor of Foreign Languages and Philosophy at Fort Valley State University in Georgia, listed in 2000 Outstanding Scholars of the 21st Century and is a recipient of the Twenty-First Century Award for Achievement in Philosophy from the International Biographical Centre --Edward, Philosophy After Hiroshima: From Power Politics to the Ethics of Nonviolence and Co-Responsibility, February, American Journal of Economics and Sociology, Volume 68, Issue 1, Pages 9-49

Where, then, does the future lie? Unilateralism, hegemonic political anarchy, mass immiseration, ecocide, and global violence—a Hobbesian bellum omnium contra omnes? Or international cooperation, social justice, and genuine collective—political and human—security? Down which path lies cowering, fragile hope?¶ Humanistic thinkers approach these problems from the perspective of their concern about the situation of individuals and the long-range interests of humanity. They examine in depth the root causes of these problems, warning about the consequences of escalation and, at the same time, indicating the prospect of their possible solutions through nonviolent means and a growing global consciousness. Today's world is in desperate need of realistic alternatives to violent conflict. Nonviolent action—properly planned and executed—is a powerful and effective force for political and social change. The ideas of peace and nonviolence, as expressed by Immanuel Kant, Leo Tolstoy, Mahatma Gandhi, Martin Luther King, and many contemporary philosophers—supported by peace and civil rights movements—counter the paralyzing fear with hope and offer a realistic alternative: a rational approach to the solutions to the problems, encouraging people to be the masters of their own destiny.¶ Fortunately, the memory of the tragedies of war and the growing realization of this new existential situation of humanity has awakened the global conscience and generated protest movements demanding necessary changes. During the four decades of the Cold War, which polarized the world, power politics was challenged by the common perspective of humanity, of the supreme value of human life, and the ethics of peace. Thus, in Europe, which suffered from both world wars and totalitarianism, spiritual-intellectual efforts to find solutions to these problems generated ideas of "new thinking," aiming for peace, freedom, and democracy. Today, philosophers, intellectuals, progressive political leaders, and peace-movement activists continue to promote a peaceful alternative. In the asymmetry of power, despite being frustrated by war-prone politics, peaceful projects emerge each time, like a phoenix arising from the ashes, as the only viable alternative for the survival of humanity. The new thinking in philosophy affirms the supreme value of human and nonhuman life, freedom, justice, and the future of human civilization. It asserts that the transcendental task of the survival of humankind and the rest of the biotic community must have an unquestionable primacy in comparison to particular interests of nations, social classes, and so forth. In applying these principles to the nuclear age, it considers a just and lasting peace as a categorical imperative for the survival of humankind, and thus proposes a world free from nuclear weapons and from war and organized violence.44 In tune with the Charter of the United Nations, it calls for the democratization of international relations and for dialogue and cooperation in order to secure peace, human rights, and solutions to global problems. It further calls for the transition toward a cosmopolitan order.¶ The escalating global problems are symptoms of what might be termed a contemporary civilizational disease, developed over the course of centuries, in which techno-economic progress is achieved at the cost of depersonalization and dehumanization. Therefore, the possibility of an effective "treatment" today depends on whether or not humankind will be able to regain its humanity, thus establishing new relations of the individual with himself or herself, with others, and with nature. Hence the need for a new philosophy of humanity and an ethics of nonviolence and planetary co-responsibility to help us make sense not only of our past historical events, but also of the extent, quality, and urgency of our present choices.

#### Framing issue – the way we discuss and represent war should come first – the language surrounding violence has direct, concrete effects

**Collins & Glover 2** (John, Assistant Prof. of Global Studies at St. Lawrence University, Ross, Visiting Professor of Sociology at St. Lawrence University, Collateral Language, p. 6-7)

As any university student knows, theories about the “social con­struction” and social effects of language have become a common feature of academic scholarship. Conservative critics often argue that those who use these theories of language (e.g., deconstruc­tion) are “just” talking about language, as opposed to talking about the “real world.” The essays in this book, by contrast, begin from the premise that language matters in the most concrete, im­mediate way possible: its use, by political and military leaders, leads directly to violence in the form of war, mass murder (in­cluding genocide), the physical destruction of human commu­nities, and the devastation of the natural environment. Indeed, if the world ever witnesses a nuclear holocaust, it will probably be because leaders in more than one country have succeeded in convincing their people, through the use of political language, that the use of nuclear weapons and, if necessary, the destruction of the earth itself, is justifiable. From our perspective, then, every act of political violence—from the horrors perpetrated against Native Americans to the murder of political dissidents in the So­viet Union to the destruction of the World Trade Center, and now the bombing of Afghanistan—is intimately linked with the use of language. Partly what we are talking about here, of course, are the processes of “manufacturing consent” and shaping people’s per­ception of the world around them; people are more likely to sup­port acts of violence committed in their name if the recipients of the violence have been defined as “terrorists,” or if the violence is presented as a defense of “freedom.” Media analysts such as Noam Chomsky have written eloquently about the corrosive ef­fects that this kind of process has on the political culture of sup­posedly democratic societies. At the risk of stating the obvious, however, the most fundamental effects of violence are those that are visited upon the objects of violence; the language that shapes public opinion is the same language that burns villages, besieges entire populations, kills and maims human bodies, and leaves the ground scarred with bomb craters and littered with land mines. As George Orwell so famously illustrated in his work, acts of vio­lence can easily be made more palatable through the use of eu­phemisms such as “pacification” or, to use an example discussed in this book, “targets.” It is important to point out, however, that the need for such language derives from the simple fact that the violence itself is abhorrent. Were it not for the abstract language of “vital interests” and “surgical strikes” and the flattering lan­guage of “civilization” and ‘just” wars, we would be less likely to avert our mental gaze from the physical effects of violence.

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**Obama will prevail in the debt ceiling battle by maintaining a focused message and strong political image**

**Dovere and Epstein, 10/1** (EDWARD-ISAAC DOVERE and REID J. EPSTEIN, 10/1/2013, “Government shutdown: President Obama holds the line,” <http://www.politico.com/story/2013/10/government-shutdown-president-obama-holds-the-line-97646.html?hp=f3>)

President Barack **Obama started September in an agonizing, extended display of how little sway he had in Congress. He ended the month with a display of resolve and strength that could redefine his presidency.**

**All it took was a government shutdown.**

This was less a White House strategy than simply staying in the corner the House GOP had painted them into — to the White House’s surprise, **Obama was forced to do what he so rarely has as president: he said no, and he didn’t stop saying no**.

For two weeks ahead of Monday night’s deadline, Obama and aides rebuffed the efforts to kill Obamacare with the kind of firm, narrow sales pitch they struggled with in three years of trying to convince people the law should exist in the first place. There was no litany of doomsday scenarios that didn’t quite come true, like in the run-up to the fiscal cliff and the sequester. No leaked plans or musings in front of the cameras about Democratic priorities he might sacrifice to score a deal.

After five years of what’s often seen as Obama’s desperation to negotiate — to the fury of his liberal base and the frustration of party leaders who argue that he negotiates against himself. Even his signature health care law came with significant compromises in Congress.

Instead, **over and over and over again, Obama delivered the simple line: Republicans want to repeal a law that was passed and upheld by the Supreme Court** — to give people health insurance — or they’ll do something that everyone outside the GOP caucus meetings, including Wall Street bankers, seems to agree would be a ridiculous risk.

“If we lock these Americans out of affordable health care for one more year,” Obama said Monday afternoon as he listed examples of people who would enjoy better treatment under Obamacare, “if we sacrifice the health care of millions of Americans — then they’ll fund the government for a couple more months. Does anybody truly believe that we won’t have this fight again in a couple more months? Even at Christmas?”

The president and his advisers weren’t expecting this level of Republican melee, a White House official said. Only during Sen. Ted Cruz’s (R-Texas) 21-hour floor speech last week did the realization roll through the West Wing that they wouldn’t be negotiating because they couldn’t figure out anymore whom to negotiate with. And even then, they didn’t believe the shutdown was really going to happen until Saturday night, when the House voted again to strip Obamacare funding.

This wasn’t a credible position, Obama said again Monday afternoon, but rather, bowing to “extraneous and controversial demands” which are “all to save face after making some impossible promises to the extreme right wing of their political party.”

Obama and aides have said repeatedly that they’re not thinking about the shutdown in terms of political gain, but the situation’s is taking shape for them. Congress’s approval on dealing with the shutdown was at 10 percent even before the shutters started coming down on Monday according to a new CNN/ORC poll, with 69 percent of people saying the House Republicans are acting like “spoiled children.”

**“The Republicans are making themselves so radioactive that the president and Democrats can win this debate in the court of public opinion” by waiting them out, said** Jim **Manley, a Democratic strategist** and former aide to Senate Majority Leader Harry Reid who has previously been critical of Obama’s tactics.

Democratic pollster Stan Greenberg said the Obama White House learned from the 2011 debt ceiling standoff, when it demoralized fellow Democrats, deflated Obama’s approval ratings and got nothing substantive from the negotiations.

“They didn’t gain anything from that approach,” Greenberg said. “I think that there’s a lot they learned from what happened the last time they ran up against the debt ceiling.”

While the Republicans have been at war with each other, the White House has proceeded calmly — a breakthrough phone call with Iranian President Hassan Rouhani Friday that showed him getting things done (with the conveniently implied juxtaposition that Tehran is easier to negotiate with than the GOP conference), his regular golf game Saturday and a cordial meeting Monday with his old sparring partner Israeli Prime Minister Benjamin Netanyahu.

White House press secretary Jay Carney said Monday that the shutdown wasn’t really affecting much of anything.

“It’s busy, but it’s always busy here,” **Carney said**. “It’s busy for most of you covering this White House, any White House. **We’re very much focused on making sure that the implementation of the Affordable Care Act continues.”**

Obama called all four congressional leaders Monday evening — including Boehner, whose staff spent Friday needling reporters to point out that the president hadn’t called for a week. According to both the White House and Boehner’s office, the call was an exchange of well-worn talking points, and changed nothing.

Manley advised Obama to make sure people continue to see Boehner and the House Republicans as the problem and not rush into any more negotiations until public outrage forces them to bend.

“He may want to do a little outreach, but not until the House drives the country over the cliff,” Manley said Monday, before the shutdown. “Once the House has driven the country over the cliff and failed to fund the government, then it might be time to make a move.”

The White House believes Obama will take less than half the blame for a shutdown – with the rest heaped on congressional Republicans.

The divide is clear in a Gallup poll also out Monday: over 70 percent of self-identifying Republicans and Democrats each say their guys are the ones acting responsibly, while just 9 percent for both say the other side is.

**If Obama is able to turn public opinion against Republicans, the GOP won’t be able to turn the blame back on Obama**, Greenberg said. “Things only get worse once things begin to move in a particular direction,” he said. “They don’t suddenly start going the other way as people rethink this.”

**Losing authority would embolden the GOP on the debt ceiling fight and undermine the economy**

**Seeking Alpha, 9/10** (“Syria Could Upend Debt Ceiling Fight,” 9/10/2013, <http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight>)

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This **defeat would be totally unprecedented as a President has never lost a military authorization vote** in American history. To forbid the Commander-in-Chief of his primary power renders him all but impotent. At this point, a rebuff from the House is a 67%-75% probability.

I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four.

While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, **investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling**.

Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. **For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.**

Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. **Already, Conservative PACs** have begun airing advertisements, **urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight.**

I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.

As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. **The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.**

Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time.

Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade.

I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that **Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree** (Syria said it was willing to consider), **the U.S. would not have to strike, canceling the congressional vote.** The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks.

The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama.

Remember, **in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.**

**Entertaining GOP negotiating demands will drag the process out and trigger economic collapse**

**Lobello, 8/27** --- business editor at TheWeek.com (Carmel, 8/27/2013, “How the looming debt ceiling fight could screw up the U.S. economy; Yup, this is happening — again,” [http://theweek.com/article/index/248775/how-the-looming-debt-ceiling-fight-could-screw-up-the-us-economy)](http://theweek.com/article/index/248775/how-the-looming-debt-ceiling-fight-could-screw-up-the-us-economy%29))

Ready for more debt-ceiling drama?

The Treasury Department said Monday it would hit its borrowing limit in mid-October, which means that Congress will need to raise its $16.7 trillion debt ceiling to pay the nation's bills.

The sooner-than-expected deadline comes at an inconvenient moment, because Congress is already facing a budget deadline for the stopgap "continuing resolution" that finances the federal government, which is set to run out September 30. Failure to come to an agreement would trigger a government shutdown.

Having two big deadlines fall two weeks apart could be a recipe for disaster. Republicans, led by Speaker John **Boehner** (R-Ohio), **have been musing about the possibility of using the debt ceiling, instead of a government shutdown, as leverage to delay the implementation of ObamaCare**.

But as Ezra Klein put it in The Washington Post, "Trading a government shutdown for a debt-ceiling breach is like trading the flu for septic shock":

**Anything Republicans might fear about a government shutdown is far more terrifying amidst a debt-ceiling breach. The former is an inconvenience. The latter is a global financial crisis.** It’s the difference between what happened in 1995, when the government did shutdown, and what happened in 2008, when global markets realized a bedrock investment they thought was safe (housing in that case, U.S. treasuries in this one) was full of risk. [The Washington Post]

Indeed, **a debt ceiling debate in 2011 that went on to the last possible minute had real economic consequences, leading Standard & Poor's to downgrade the United States' credit rating. The move "left a clear and deep dent in US economic and market data," said** Matt **Phillips at Quartz**.

Investors pulled huge amounts of cash from the stock market, and consumer confidence was hurt as well. When the same problem cropped up again in May 2012, because Congress failed to reach a long-term deal, Betsey Stevenson and Justin Wolfers in Bloomberg explained how confidence plummeted the first time around:

[Confidence] went into freefall as the political stalemate worsened through July. Over the entire episode, confidence declined more than it did following the collapse of Lehman Brothers Holdings Inc. in 2008. After July 31, when the deal to break the impasse was announced, consumer confidence stabilized and began a long, slow climb that brought it back to its starting point almost a year later. [Bloomberg]

This morning, Wolfers had this to say:

Treasury Secretary Jack Lew visited CNBC Tuesday morning to reiterate President Obama's promise not to go down he same road. **"The president has made it clear: We're not going to negotiate over the debt limit,"** Lew said.

He also explained why in a letter to Boehner Monday morning. "Protecting the full faith and credit of the United States is the responsibility of Congress, because only Congress can extend the nation's borrowing authority," he wrote. "Failure to meet that responsibility would cause irreparable harm to the American economy."

**This will destroy the U.S. and global economy and collapse trade**

**Davidson, 9/10** (Adam - co-founder of NPR’s “Planet Money” 9/10/2013, “Our Debt to Society,” <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&_r=0)>)

This is the definition of a deficit, and it illustrates why the government needs to borrow money almost every day to pay its bills. Of course, all that daily borrowing adds up, and we are rapidly approaching what is called the X-Date — the day, somewhere in the next six weeks, when the government, by law, cannot borrow another penny. **Congress** has imposed a strict limit on how much debt the federal government can accumulate, but **for nearly 90 years**, it **has raised the ceiling well before it was reached**. But **since a large number of Tea Party**-aligned **Republicans entered the House** of Representatives, in 2011, **raising that debt ceiling has become a matter of fierce debate**. This summer, House **Republicans have promised**, in Speaker John Boehner’s words, **“a whale of a fight” before they raise the debt ceiling — if they even raise it at all.**

**If the debt ceiling isn’t lifted** again this fall, **some serious financial decisions will have to be made**. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, **the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster** achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, **it won’t be an isolated national crisis**. If the American government can’t stand behind the dollar, the world’s benchmark currency, **then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be**, by most accounts, **the largest self-imposed financial disaster in history**.

Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. **No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default**. And there’s certainly no record of that happening to the country that controls the global reserve currency.

Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. **If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher**, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — **which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years**.

Instead, Robert **Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious**. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, **if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.**

**While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined.** Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. **Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.**

**The U.S. benefits enormously from its status as global reserve currency and safe haven**. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If **that status erodes, the U.S. economy’s peaks will be lower and recessions deeper**; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, **no other country would benefit from America’s diminished status**. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

**The impact is global nuclear war**

**Freidberg & Schonfeld, 8** --- \*Professor of Politics and IR at Princeton’s Woodrow Wilson School, AND \*\*senior editor of Commentary and a visiting scholar at the Witherspoon Institute in Princeton (10/21/2008, Aaron and Gabriel, “The Dangers of a Diminished America”, Wall Street Journal, http://online.wsj.com/article/SB122455074012352571.html?mod=googlenews\_wsj)

**With the global financial system in serious trouble, is America's geostrategic dominance likely to diminish?** If so, what would that mean?

One immediate implication of the crisis that began on Wall Street and spread across the world is that **the primary instruments of U.S. foreign policy will be crimped**. The next president will face an entirely new and adverse fiscal position. Estimates of this year's federal budget deficit already show that it has jumped $237 billion from last year, to $407 billion. With families and businesses hurting, there will be calls for various and expensive domestic relief programs.

In the face of this onrushing river of red ink, both Barack Obama and John McCain have been reluctant to lay out what portions of their programmatic wish list they might defer or delete. Only Joe Biden has suggested a possible reduction -- foreign aid. This would be one of the few popular cuts, but in budgetary terms it is a mere grain of sand. Still, Sen. Biden's comment hints at where **we may be headed: toward a major reduction in America's world role, and perhaps even a new era of financially-induced isolationism.**

**Pressures to cut defense spending, and to dodge the cost of waging two wars, already intense before this crisis, are likely to mount.** Despite the success of the surge, the war in Iraq remains deeply unpopular. Precipitous withdrawal -- attractive to a sizable swath of the electorate before the financial implosion -- might well become even more popular with annual war bills running in the hundreds of billions.

Protectionist sentiments are sure to grow stronger as jobs disappear in the coming slowdown. Even before our current woes, calls to save jobs by restricting imports had begun to gather support among many Democrats and some Republicans. **In a prolonged recession, gale-force winds of protectionism will blow.**

Then **there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy**, among other things, **made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven.** Will this be possible in the future?

Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. **Russia's new militancy and China's seemingly relentless rise also give cause for concern.**

**If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk.**

**In** such a scenario there are shades of **the** 19**30s**, **when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability.**

**The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder** than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity.

**None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures**.

As for our democratic friends, the present crisis comes when many European nations are struggling to deal with decades of anemic growth, sclerotic governance and an impending demographic crisis. Despite its past dynamism, Japan faces similar challenges. India is still in the early stages of its emergence as a world economic and geopolitical power.

What does this all mean? **There is no substitute for America on the world stage**. The choice we have before us is between the potentially disastrous effects of disengagement and the stiff price tag of continued American leadership.

### 1nc OLC Mechanism

**The President of the United States of America should seek the legal advice of the United States Department of Justice’s Office of Legal Counsel on whether it should seek Congressional authorization prior to initiating military action, unless to repel attacks on the United States. The OLC should publicly disclose a written legal opinion that the executive branch of the United States federal government should not initiate military action, unless to repel attacks on the United States, without first seeking Congressional authorization. The President should issue an executive order complying with that advice. Other executive branch legal personnel, including the Attorney General, will defer to the advice of the OLC on this issue.**

#### The President should implement this through self-binding mechanisms including, but not limited to independent commissions to review and ensure compliance with the order and transparency measures that gives journalists access to White House decisionmaking.

#### The counterplan solves --- internalizes legal norms, effectively constrains the president, establishes precedent and is sufficiently immune from political influences

Bradley and Morrison, 13 --- Professor of Law at Duke, AND \*\*Professor of Law at Colombia (May 2013, Columbia Law Review, “ESSAY: PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND LEGAL CONSTRAINT,” 113 Colum. L. Rev. 1097))

III. Possible Mechanisms of Constraint

Having specified in the previous Part what counts as legal constraint in our view, this Part considers how legal constraints might work with respect to the presidency. It first examines two familiar potential mechanisms of constraint: the internalization of legal norms by relevant actors within the executive branch and the threat of external sanctions for violating those norms. This Part then discusses the implications of an obvious but less-discussed phenomenon - the fact that executive officials frequently engage in public dialogue about the President's constitutional authority, including his practice-based authority. It concludes by analyzing the debate over the military intervention in Libya, mentioned earlier, in order to highlight some of the challenges associated with empirically studying the ways in which the presidency may be constrained by law.

A. Norm Internalization

Perhaps the most obvious way that law can have a constraining effect is if the relevant actors have internalized the legal norms, whether those norms are embodied in authoritative text, judicial decisions, or institutional practice. As a general matter, the internalization of legal norms is a phenomenon that can potentially take place wherever the law is thought to operate, in both the private and public sectors. But precisely how that internalization operates, including how it affects actual conduct, depends heavily on institutional context. When speaking of legal norm internalization as it relates to the presidency, it is important first to note that Presidents act through a wide array of agencies and departments, and that presidential decisions are informed - and often made, for all practical purposes - by officials other than the President. In most instances involving presidential power, therefore, the relevant question is whether there has been an internalization of legal norms by the executive branch.

The executive branch contains thousands of lawyers. n124 The President and other executive officials are regularly advised by these lawyers, and sometimes they themselves are lawyers. Although lawyers serve in a wide variety of roles throughout the executive branch, their [\*1133] experience of attending law school means that they have all had a common socialization - a socialization that typically entails taking law seriously on its own terms. n125 Moreover, the law schools attended by virtually all U.S. government lawyers are American law schools, which means that the lawyers are socialized in an ethos associated with the American polity and the American style of law and government. n126 These lawyers are also part of a professional community (including the state bars to which they are admitted) with at least a loosely shared set of norms of argumentative plausibility.

Certain legal offices within the executive branch have developed their own distinctive law-internalizing practices. This is particularly true in places like OLC, which, as noted above, provides legal advice based on its best view of the law. OLC has developed a range of practices and traditions - including a strong norm of adhering to its own precedents even across administrations - that help give it some distance and relative independence from the immediate political and policy preferences of its clients across the executive branch, and that make it easier for OLC to act on its own internalization of legal norms. n127 Another example is the State Department Legal Adviser's Office, which often takes the lead within the executive branch on matters of international law and which has developed its own set of traditions and practices that help protect it from undue pressure from its clients. n128

More broadly, government legal offices may internalize legal norms even if they do not regularly focus on identifying the best view of the law. For example, an office committed not to seeking the best view of the law but to providing professionally responsible legal defenses of certain already-determined policy positions could still operate under legal constraints if it took the limits of professional responsibility seriously. [\*1134] That may well describe the typical posture of agency general counsel offices across the executive branch. As noted above, although it can be difficult to identify with consistent precision the outer boundaries of legal plausibility, a commitment to remaining within those boundaries is a commitment to a type of legal constraint.

If executive branch legal offices operate on the basis of certain internalized norms that treat law as a constraint, the next question is whether those offices have any effect on the actual conduct of the executive branch. In the case of OLC, there are two key points. First, although OLC possesses virtually no "mandatory" jurisdiction, there is a general expectation that, outside the litigation context, legal questions of special complexity, controversy, or importance will be put to OLC to address. n129 Second, established traditions treat OLC's legal conclusions as presumptively binding within the executive branch, unless overruled by the Attorney General or the President (which happens extremely rarely). n130 Combined, these practices make OLC the most significant source of centralized legal advice within the Executive Branch.

Still, OLC addresses only a very small fraction of all the legal questions that arise within the executive branch, and a complete picture of the extent to which executive officials internalize legal norms (or are affected by others who internalize such norms) must extend well beyond [\*1135] that office. n131 Looking across the executive branch more broadly, there may be a practical imperative driving at least some measure of legal norm internalization. The executive branch is a vast bureaucracy, or series of bureaucracies. Executive officials responsible for discharging the government's various policy mandates cannot act effectively without a basic understanding of who is responsible for what, and how government power is to be exercised - all topics regulated by law, including practice-based law. n132 Some of the understandings produced by those allocations are probably so internalized that the relevant actors cannot even imagine (at least in any serious way) a different regime. n133

Even on the more high-profile policy questions that receive the attention of the White House itself, the internalization of law may have a constraining effect. There are lawyers in the White House, of course, including the Office of Counsel to the President (otherwise known as the White House Counsel's Office). Some commentators - most notably Bruce Ackerman, as part of his general claim that the executive branch tends toward illegality - have characterized that office as populated by "superloyalists" who face "an overwhelming incentive to tell [the President] that the law allows [him] to do whatever [he] wants to do." n134 If that were an accurate portrayal, it would suggest that there is little to no internalization of the law in the White House Counsel's Office. But there are serious descriptive deficiencies in that account. n135 [\*1136] Still, the White House Counsel's immediate proximity to and close working relationship with the President and his senior political advisors surely do cause politics to suffuse much of the work of that office in a way that is not true of all of the executive branch.

The more fundamental point, however, is that it is in the nature of modern government that the President's power to act often depends at least in part on the input and actions of offices and departments outside the White House. That commonly includes the input of legal offices from elsewhere across the executive branch. n136 Many of those offices are headed by political appointees, and thus politics are not likely to be wholly absent from their work either. But many of those offices are also populated primarily by nonpolitical "career" civil servants, whose work as government lawyers across presidential administrations likely increases the internalization of relevant legal norms. To the extent that the input and actions of such offices affect the President's ability to act, he may be constrained by law without regard to whether he or his most senior White House advisers think about the law.

Internalization of legal norms may at least partially explain the now-famous standoff during the George W. Bush Administration between high-ranking lawyers in the Justice Department and various White House officials over the legality of a then-secret warrantless surveillance program. The program was deeply important to the White House, but the Attorney General, Deputy Attorney General, and head of OLC all refused to certify the legality of the program unless certain changes were made. When the White House threatened to proceed with the program without certification from the Justice Department, the leaders of the Department (along with the Director of the FBI and others) all prepared to resign. Ultimately, the White House backed down and acceded to the changes. n137 Some substantial part of the explanation for why the Justice Department officials acted as they did seems to lie in their internalization of a set of institutional norms that not only takes law seriously as a constraint, but that insists on a degree of independence in determining [\*1137] what the law requires. n138 Buckling under pressure from the White House was evidently inconsistent with the Justice Department officials' understanding of their professional roles.

#### Internal administrative decisions solve – prevents the precedent of unilateral executive action from “taking root” in future administrations

Barron and Lederman – 1ac authors – 2008

David J. Barron\* and Martin S. Lederman\*\*, \* Professor of Law, Harvard Law School and \*\* Visiting Professor of Law, Georgetown University Law Center, ARTICLE: THE COMMANDER IN CHIEF AT THE LOWEST EBB -- A CONSTITUTIONAL HISTORY, February, 2008, 121 Harv. L. Rev. 941

Thus, as future administrations contemplate the extent of their own discretion at the "lowest ebb," they will be faced with an important choice. They can build upon a practice rooted in a fundamental acceptance of the legitimacy of congressional control over the conduct of campaigns that prevailed without substantial challenge through World War II. Or they can cast their lot with the more recent view, espoused to some extent by most - though not all - modern Presidents, that the principle of exclusive control over the conduct of war provides the baseline from which to begin thinking about the Commander in Chief's proper place in the constitutional structure. We conclude that it would be wrong to assume, as some have suggested, that the emergence of such preclusive claims will be self-defeating, inevitably inspiring a popular and legislative reaction that will leave the presidency especially weakened. The more substantial concern is the opposite one. The risk is that the emergence of such claims will subtly but increasingly influence future Executives to eschew the harder work of accepting legislative constraints as legitimate and actively working to make them tolerable by building public support for modifications. Over time, the prior practice we describe could well become at best a faintly remembered one, set aside on the ground that it is unsuited for what are thought to be the unique perils of the contemporary world. Our hope, therefore, is that by presenting this longstanding constitutional practice of congressional engagement and executive accommodation as a workable alternative, such forgetting will be far less likely to occur.

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#### Including self-binding mechanisms ensures effective constraints and executive credibility

Posner & Vermeule, 6 --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

IV. Executive Signaling: Law and Mechanisms

We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involve executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.

This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations.71 Whether or not this picture is coherent,72 it is not the question we examine here, although some of the relevant considerations are similar.73 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government.

Furthermore, our question is subconstitutional; it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling to generate public trust. Accordingly we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations; in general, the solution is to engage in actions that are less costly for good types than for bad types.

We begin with some relevant law; then examine a set of possible mechanisms, emphasizing both the conditions under which they might succeed and the conditions under which they might not; and then examine the costs of credibility.

A. A Preliminary Note on Law and Self-Binding

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.74 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.75 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.

More schematically, we may speak of formal and informal means of self-binding:

(1) The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.

(2) The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.76 However, there may be large political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

B. Mechanisms

What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators and judges that his policies rest on judgments about the public interest, rather than on power-maximization, partisanship or other nefarious motives? Intrabranch separation of powers. In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels “internal separation of powers” within the executive branch.77 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger civil-service protections and internal adjudication of executive controversies by insulated “executive” decisionmakers who resemble judges in many ways.78Katyal’s argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed, on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy;79 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large-scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard). Overall, Katyal’s view has a kind of fractal quality – each branch should reproduce within itself the very same separation of powers structure that also describes the whole system – but it is not explained why the constitutional order should be fractal.

Second, Katyal’s proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends.80 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices.81 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an illmotivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal’s premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their costs.

The contrast here must not be drawn too simply. A well-motivated executive, in our sense, might well attempt to increase his power. The very point of demonstrating credibility is to encourage voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully-informed voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor.

Independent commissions. We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal’s idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan.82

We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. The president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it.

Consider whether George W. Bush’s credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush shared that knowledge, the public could have inferred that Bush’s professed motive – elimination of weapons of mass destruction – was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one.

The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction.83 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event—by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future – merely a plausible inference that the president’s future behavior will track his past behavior.

Bipartisan appointments. In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office.84 A number of statutes require partisan balance on multimember commissions; although these statutes are outside the scope of our discussion, we note that presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place.85 For similar reasons, presidents may consent to restrictions on the removal of agency officials, because the restriction enables the president to commit to giving the agency some autonomy from the president’s preferences.86

Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades and groupthink;87 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president’s privileged access to information, (2) ensuring that policy is partly controlled by officials with preferences that differ from the president’s, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress.

A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president’s own party, leaders whose preferences are known to diverge from the president’s on the subject; one point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences.

The Independent Counsel Statute institutionalized the special prosecutor and strengthened it. But the statute proved unpopular and was allowed to lapse in 1999.88 This experience raises two interesting questions. First, why have presidents confined themselves to appointing lawyers to investigate allegations of wrongdoing; why have they not appointed, say, independent policy experts to investigate allegations of policy failure? Second, why did the Independent Counsel Statute fail? Briefly, the statute failed because it was too difficult to control the behavior of the prosecutor, who was not given any incentive to keep his investigation within reasonable bounds.89 Not surprisingly, policy investigators would be even less constrained since they would not be confined by the law, and at the same time, without legal powers they would probably be ignored on partisan grounds. A commission composed of members with diverse viewpoints is harder to ignore, if the members agree with each other.

More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic coalitions of the willing. Presidents can informally bargain around the formal separation of powers90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenbergh but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee – including Democrats – on the administration’s secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public.

Counter-partisanship. Related to bipartisanship is what might be called counterpartisanship: presidents have greater credibility when they choose policies that cut against the grain of their party’s platform or their own presumed preferences.91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty.92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat.93 By the same logic, George W. Bush is widely suspected of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit.

Counter-partisanship can powerfully enhance the president’s credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky.

Transparency. The well-motivated executive might commit to transparency, as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.

Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking, and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency – no one expects meetings of the National Security Council to appear on CSPAN – but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.

There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong.96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts—especially journalists who might reward presidents who give them access by portraying their decisionmaking in a favorable light.97

We will take up the costs of credibility shortly.98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well-motivated, precisely because the existence of costs would have given an ill-motivated executive an excuse not to use those mechanisms.

Multilateralism. Another credibility-generating mechanism for the executive is to enter into alliances or international institutions that subject foreign policy decisions to multilateral oversight. Because the information gap between voters and legislators, on the one hand, and the executive on the other is especially wide in foreign affairs, there is also wide scope for suspicion and conspiracy theories. If the president undertakes a unilateral foreign policy, some sectors of the domestic public will be suspicious of his motives. All recent presidents have faced this problem. In the case of George W. Bush, as we suggested, many have questioned whether the invasion of Iraq was undertaken to eliminate weapons of mass destruction, or to protect human rights, or instead to safeguard the oil supply, or because the president has (it is alleged) always wanted to invade Iraq because Saddam Hussein ordered the assassination of his father. In the case of Bill Clinton, some said that the cruise missile attack on Osama bin Laden’s training camp in Afghanistan was a “wag the dog” tactic intended to distract attention from Clinton’s impeachment.

A public commitment to multilateralism can close or narrow the credibility gap.

Suppose that a group of nations have common interests on one dimension – say, security from terrorism or from proliferation of nuclear weapons – but disparate interests on other dimensions – say, conflicting commercial or political interests. Multilateralism can be understood as a policy that in effect requires a supermajority vote, or even unanimity, among the group to license intervention. The supermajority requirement ensures that only interventions promoting the security interest common to the group will be approved, while interventions that promote some political agenda not shared by the requisite supermajority will be rejected. Knowing this, domestic audiences can infer that interventions that gain multilateral approval do not rest on disreputable motives.

It follows that multilateralism can be either formal or informal. Action by the United Nations Security Council can be taken only under formal voting rules that require unanimity. Informally, in the face of increasing tensions with Iran, George W. Bush’s policy has been extensive multilateral consultations and a quasi-commitment not to intervene unilaterally. Knowing that his credibility is thin after Iraq, Bush has presumably adopted this course in part to reassure domestic audiences that there is no nefarious motive behind an intervention, should one occur.

It also follows that multilateralism and bipartisan congressional authorization may be substitutes, in terms of generating credibility. In both cases the public knows that the cooperators – partisan opponents or other nations, as the case may be – are unlikely to share any secret agenda the president may have. The substitution is only partial, however; as we suggested in Part III, the Madisonian emphasis on bipartisan authorization has proven insufficient. The interests of parties within Congress diverge less than do the interests of different nations, which makes the credibility gain greater under multilateralism. In eras of unified government, the ability of the president’s party to put a policy through Congress without the co-operation of the other party (ignoring the threat of a Senate filibuster, a weapon that the minority party often hesitates to wield) often undermines the policy’s credibility even if members of the minority go along; after all, the minority members may be going along precisely because they anticipate that opposition is fruitless, in which case no inference about the policy’s merits should be drawn from their approval. Moreover, even a well-motivated president may prefer, all else equal, to generate credibility through mechanisms that do not involve Congress, if concerned about delay, leaks, or obstruction by small legislative minorities. Thus Truman relied on a resolution of the United Nations Security Council rather than congressional authorization to prosecute the Korean War.99

The costs of multilateralism are straightforward. Multilateralism increases the costs of reaching decisions, because a larger group must coordinate its actions, and increases the risks of false negatives – failure to undertake justified interventions. A president who declines to bind himself through multilateralism may thus be either illmotivated and desirous of pursuing an agenda not based on genuine security goals, or well-motivated and worried about the genuine costs of multilateralism. As usual, however, the credibility-generating inference holds asymmetrically: precisely because an ill-motivated president may use the costs of multilateralism as a plausible pretext, a president who does pursue multilateralism is more likely to be well-motivated.

Strict liability. For completeness, we mention that the well-motivated executive might in principle subject himself to strict liability for actions or outcomes that only an ill-motivated executive would undertake. Consider the controversy surrounding George W. Bush’s telecommunications surveillance program, which the president has claimed covers only communications in which one of the parties is overseas; domestic-to-domestic calls are excluded.100 There is widespread suspicion that this claim is false.101 In a recent poll, 26% of respondents believed that the National Security Agency listens to their calls.102 The credibility gap arises because it is difficult in the extreme to know what exactly the Agency is doing, and what the costs and benefits of the alternatives are.

Here the credibility gap might be narrowed by creating a cause of action, for damages, on behalf of anyone who can show that domestic-to-domestic calls were examined.103 Liability would be strict, because a negligence rule – did the Agency exert reasonable efforts to avoid examining the communication? – requires too much information for judges, jurors, and voters to evaluate, and would just reproduce the monitoring problems that gave rise to the credibility gap in the first place. Strict liability, by contrast, would require a much narrower factual inquiry. Crucially, a commitment to strict liability would only be made by an executive who intended to minimize the incidence of (even unintentional and non-negligent) surveillance of purely domestic communications.

However, there are legal and practical problems here, perhaps insuperable ones. Legally, it is hardly clear that the president could, on his own authority, create a cause of action against himself or his agents to be brought in federal court. It is well within presidential authority to create executive commissions for hearing claims against the United States, for disbursing funds under benefit programs, and so on; but the problem here is that there might be no pot of money from which to fund damages. The so-called Judgment Fund, out of which damages against the executive are usually paid, is restricted to statutorily-specified lawsuits. If so, statutory authorization for the president to create the strict liability cause of action would be necessary, as we discuss shortly.104 Practically, it is unclear whether government agents can be forced to “internalize costs” through money damages in the way that private parties can, at least if the treasury is paying those damages.105 And if it is, voters may not perceive the connection between governmental action and subsequent payouts in any event.

The news conference. Presidents use news conferences to demonstrate their mastery of the details of policy. Many successful presidents, like FDR, conducted numerous such conferences.106 Ill-motivated presidents will not care about policy if their interest is just holding power for its own sake; thus, they would regard news conferences as burdensome and risky chores. The problem is that a well-motivated president does not necessarily care about details of policy, as opposed to its broad direction, and journalists might benefit by tripping up a president in order to score points. Reagan, for example, did not care about policy details, but is generally regarded as a successful president.107 To make Reagan look good, his handlers devoted considerable resources trying to prepare him for news conferences, resources that might have been better used in other ways.108

“Precommitment politics.”109 We have been surveying mechanisms that the wellmotivated executive can employ once in office. However, in every case the analysis can be driven back one stage to the electoral campaign for executive office. During electoral campaigns, candidates for the presidency take public positions that partially commit them to subsequent policies, by raising the reputational costs of subsequent policy changes. Under current law, campaign promises are very difficult to enforce in the courts.110 But even without legal enforcement, position-taking helps to separate the well-motivated from the ill-motivated candidate, because the costs to the former of making promises of this sort are higher. To be sure, many such promises are vacuous, meaning that voters will not sanction a president who violates them, but some turn out to have real force, as George H.W. Bush discovered when he broke his clear pledge not to raise taxes.

## Case

### R2P 1NC

#### Power of the purse creates a functional check

Seth Weinberger – 2009, Asst. Prof. of Politics and Gov’t at University of Puget Sound, Restoring the Balance: War Powers in an Age of Terror, googlebooks

The use by Congress of appropriations to check the president’s ability to use force has been more frequent since 1970. During the Vietnam War, for example, Congress used the power of the purse four times: in 1970, when it prohibited the use of funds to finance American ground troops or military advisors in Cambodia: twice in June 1973, when Congress, in two separate appropriations bills, cut off funds “to support directly or indirectly combat operations in or over Cambodia, Laos, North Vietnam, and South Vietnam by United States forces”: and in 1974, when a personnel ceiling of 4,000 Americans in Vietnam six months after enactment and 3,000 within one year was passed.’8 In 1976, the appropriations bill for the Defense Department barred the use of any funds “for any activities in Angola,” and Congress subsequently passed a permanent ban on the use of any funds “to conduct military or paramilitary operations in Angola.” In 1984, in the midst of furious debate over President Reagan’s policies in Latin America, the appropriations bill passed stated that “no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved [in] intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.”’9 And, during the 1990s, Congress tried several times to use its appropriations power to limit President Clinton’s ability to deploy American troops. In 1993, Congress cut off funding for U.S. troops in Somalia, while in 1994, it forbade the use of funds appropriated to the Defense Department for intervention in the Rwandan genocide.20 It is evident that Congress not only knows how to use its appropriations power as a check on the president, but also has demonstrated the willingness to use that power. Furthermore. Congress possesses broad discretionary control over the funds it appropriates. In *Spaulding v. Douglass Aircraft*, the court stated that: Congress in making appropriations has the power and authority not only to designate the purpose of the appropriation, but also the terms and conditions under which the executive department. . . may expend such appropriations. The purpose of appropriations, the terms and conditions under which said appropriations were made is a matter solely in the hands of Congress and it is the plain and explicit duty of the executive branch to comply with the same.2’ Because the power of the purse is SO clearly and explicitly given to Congress. it serves as a broad and effective means by which the legislative branch can check the executive branch by limiting or even forbidding funds to be used in specific ways for specific purposes. As Jon Pevehouse and William Howell argue in their work examining congressional checks on presidential war powers, the appropriations power is a potent tool in the hands of Congress.22

#### Legal contraints aren’t the answer – party loyalty determines if Congress will check the president

William G. Howell and Jon C. Pevehouse – 2007, Associate Professors at the Harris School of Public Policy at the University of Chicago, When Congress Stops Wars: Partisan Politics and Presidential Power, Foreign Affairs, Vol. 86, No. 5 (Sep. - Oct., 2007), pp. 95-107, http://themonkeycage.org/wp-content/uploads/2013/09/Howell-Pevehouse-2007-1.pdf

FOR MOST of George W. Bush's tenure, political observers have lambasted Congress for failing to fulfill its basic foreign policy obligations. Typical was the recent Foreign Affairs article by Norman Ornstein and Thomas Mann, "When Congress Checks Out," which offered a sweeping indictment of Congress' failure to monitor the president's execution of foreign wars and antiterrorist initiatives. Over the past six years, they concluded, congressional oversight of the White House's foreign and national security policy "has virtually collapsed." Ornstein and Mann's characterization is hardly unique. Numerous constitutional-law scholars, political scientists, bureau crats, and even members of Congress have, over the years, lamented the lack of legislative constraints on presidential war powers. But the dearth of congressional oversight between 2000 and 2006 is nothing new. Contrary to what many critics believe, terrorist threats, an overly aggressive White House, and an impotent Democratic Party are not the sole explanations for congressional inactivity over the past six years. Good old-fashioned partisan politics has been, and continues to be, at play. It is often assumed that everyday politics stops at the water's edge and that legislators abandon their partisan identities during times of war in order to become faithful stewards of their constitutional obligations. But this received wisdom is almost always wrong. The illusion of congressional wartime unity misconstrues the nature of legislative oversight and fails to capture the particular conditions under which members of Congress are likely to emerge as meaningful critics of any particular military venture. The partisan composition of Congress has historically been the decisive factor in determining whether lawmakers will oppose or acquiesce in presidential calls for war. From Harry Truman to Bill Clinton, nearly every U.S. president has learned that members of Congress, and members of the opposition party in particular, are fully capable of interjecting their opinions about proposed and ongoing military ventures. When the opposition party holds a large number of seats or controls one or both chambers of Congress, members routinely challenge the president and step up oversight of foreign conflicts; when the legislative branch is dominated by the president's party, it generally goes along with the White House. Partisan unity, not institutional laziness, explains why the Bush administration's Iraq policy received such a favorable hearing in Congress from 2000 to 2006. The dramatic increase in congressional oversight following the 2oo6 midterm elections is a case in point. Immediately after assuming control of Congress, House Democrats passed a resolution condemning a proposed "surge" of U.S. troops in Iraq and Senate Democrats debated a series of resolutions expressing varying degrees of outrage against the war in Iraq. The spring 2007 supplemental appropriations debate resulted in a House bill calling for a phased withdrawal (the president vetoed that bill, and the Senate then passed a bill accepting more war ftinding without withdrawal provisions). Democratic heads of committees in both chambers continue to launch hearings and investigations into the various mishaps, scandals, and tactical errors that have plagued the Iraq war. By all indications, if the govern ment in Baghdad has not met certain benchmarks by September, the Democrats will push for binding legislation that further restricts the president's ability to sustain military operations in Iraq.

#### Your ev is too old – Obama administration has abandoned R2P – let Syrian civil war go one for over 2 years

NYT – 7/23/13, MARK LANDLER, U.S. Urged to Adopt Policy Justifying Intervention, <http://www.nytimes.com/2013/07/24/us/politics/us-urged-to-adopt-policy-justifying-intervention.html?_r=0>

When Samantha Power, President Obama’s nominee to be ambassador to the United Nations, faced senators at her confirmation hearing last week, the first question from Senator Bob Corker of Tennessee, the ranking Republican, was how she defined an idealistic, if somewhat obscure, foreign policy principle known as “responsibility to protect.” It was a politically loaded question to a woman who made her name as an academic by arguing that nations have a moral obligation to act against genocide and other mass atrocities. Ms. Power answered gingerly, saying that when civilians were murdered by their governments, “it’s incumbent on us to look” for ways to halt the bloodshed. But, she was quick to add, the principle is “less important, I think, than U.S. practice and U.S. policy.” The exchange before the Senate Foreign Relations Committee captured the awkward place that “responsibility to protect” occupies in the Obama administration. A 2005 United Nations initiative that calls on countries to intervene to prevent genocide and other mass atrocities, R2P, as it is known, has been endorsed by the United States and many other countries. Some administration officials cited R2P to justify Mr. Obama’s backing of NATO-led airstrikes in Libya in 2011, which headed off a potential massacre of rebels by Col. Muammar el-Qaddafi. Yet the administration has said nothing about R2P during two and a half years of bloody civil war in Syria, in which Mr. Obama has resolutely refused to become entangled. In that case, the strategic complexities of the conflict have outweighed any moral imperative to intervene militarily on behalf of Syria’s embattled rebels. Now, a new report written by Madeleine K. Albright, the former secretary of state, and Richard S. Williamson, a former special envoy to Sudan and foreign-policy adviser to Mitt Romney, argues that the administration should wholeheartedly embrace “responsibility to protect” and explain its importance to the American public. “R2P sounds like some chemical formula,” Dr. Albright said in an interview. “It’s in many ways a misunderstood concept; it’s up to us to clarify what ‘responsibility to protect’ means.” Mr. Williamson is blunter. “R2P is still struggling,” he said, in part because of the administration’s unwillingness to do more about Syria, which he criticized as an adviser to Mr. Romney during the 2012 presidential campaign. But Mr. Williamson, who served under President George W. Bush, said there were deeper reasons for the American aversion to foreign entanglements, having to with fatigue after a decade of war. “It’s a funny time in American politics when you have Rand Paul allying with the left about not getting involved overseas,” he said. To some critics, particularly on the right, R2P smacks of a multilateral approach to foreign policy that encroaches on American sovereignty. An aide to Mr. Corker, for example, said he wanted to make sure that Ms. Power concurred that the United States should only decide to act militarily based on its own national interests.

#### Administration is cautious with R2P

Dr. Bruce Jentleson, Professor at the Sanford School of Public Policy at Duke University, **9/25**/13, American Power in the Age of R2P, <http://opencanada.org/features/the-think-tank/interviews/american-power-in-the-age-of-r2p/>

What do you think the rhetoric used to “sell intervention” by the Obama administration revealed about its opinion on intervention? It showed that the United States supports protection of civilians from mass atrocities. But I think the administration is also cautious of over-embracing R2P, which is good, because doing so is counter-productive; it feeds into views around the world which, whether I agree with them or not, are somewhat understandable – basically that the United States has the power to do what it wants, when it wants. R2P supporters need to be careful that they don’t totally smother the norm with their own hug, so to speak. What about the reactions of the American people to Obama’s humanitarian argument and references to R2P – were they largely sympathetic? Where did the American public come down on military intervention? In terms of American public opinion on intervention generally, you have to distinguish between political support and political acceptance, because it’s more about the latter than the former. You’re never going to see 60 percent of any public say “yes, let’s go to war to defend people in some other part of the world.” It just doesn’t work that way, particularly in the United States following more than a decade of involvement in overseas wars. On Syria specifically, we did see polls in the aftermath of the use of chemical weapons that showed over 40 percent of people were prepared to support a limited military strike, as an imposition of costs for that action. That’s fairly significant, especially as that was before the president had even said he wanted to intervene, which normally triggers a “rally-around-the-flag” type effect in the polls.

#### R2P doesn’t cause interventionism and builds coalitions

NYT – 7/23/13, MARK LANDLER, U.S. Urged to Adopt Policy Justifying Intervention, <http://www.nytimes.com/2013/07/24/us/politics/us-urged-to-adopt-policy-justifying-intervention.html?_r=0>

Now, a new report written by Madeleine K. Albright, the former secretary of state, and Richard S. Williamson, a former special envoy to Sudan and foreign-policy adviser to Mitt Romney, argues that the administration should wholeheartedly embrace “responsibility to protect” and explain its importance to the American public. “R2P sounds like some chemical formula,” Dr. Albright said in an interview. “It’s in many ways a misunderstood concept; it’s up to us to clarify what ‘responsibility to protect’ means.” Mr. Williamson is blunter. “R2P is still struggling,” he said, in part because of the administration’s unwillingness to do more about Syria, which he criticized as an adviser to Mr. Romney during the 2012 presidential campaign. But Mr. Williamson, who served under President George W. Bush, said there were deeper reasons for the American aversion to foreign entanglements, having to with fatigue after a decade of war. “It’s a funny time in American politics when you have Rand Paul allying with the left about not getting involved overseas,” he said. To some critics, particularly on the right, R2P smacks of a multilateral approach to foreign policy that encroaches on American sovereignty. An aide to Mr. Corker, for example, said he wanted to make sure that Ms. Power concurred that the United States should only decide to act militarily based on its own national interests. Dr. Albright said such suspicions were based on two misconceptions, one narrow and one broad. “Responsibility to protect,” she said, calls for the use of numerous tools short of military force, from diplomacy to economic sanctions, to try to curb atrocities. More broadly, she said, building a multilateral coalition to deal with foreign conflicts actually strengthens the hand of the United States. The support of the United Nations Security Council and the Arab League for the NATO mission in Libya was a “force multiplier,” she said.

#### Presidents only take unilateral action on short engagements – squo solves adventurism

Peter M. Shane 9-2-2013; Author, 'Connecting Democracy' and 'Madison's Nightmare'; Law professor, “Rebalancing War Powers: President Obama's Momentous Decision”

<http://www.huffingtonpost.com/peter-m-shane/rebalancing-war-powers-pr_b_3853232.html>
But seeking authorization for a military strike against Syria marks the first time that a modern-day president has taken the initiative to elicit legislative approval for a military action that, by the President's own reckoning, will neither be a prolonged, nor a boots-on-the-ground operation. In announcing his decision, President Obama, like both Presidents Bush, declared that he possessed the constitutional authority to act unilaterally. He said he does not need Congress' approval in order to proceed. But historical precedents have consequences. Whatever their formal legal views, the Bushes' decisions helped cement a consistent pattern: With the exception of Korea, the United States has never engaged in a massive or prolonged military deployment without some form of explicit congressional sanction. A President acting unilaterally to start what is sometimes called "a real war" henceforth would probably be courting impeachment.

#### high prices encourage better ag investment

Kharas 8 (Homi, sr. fellow @ the Brookings Institute, July 29, http://www.brookings.edu/opinions/2008/0729\_food\_prices\_kharas.aspx)

#### The good news is that higher food prices are exactly what is required to restore balance in the market. With rising demand and constrained supply the iron law of economics permits no other response. In a market economy, when demand exceeds supply, prices rise. Higher prices discourage consumption, but they also encourage more investment and enhance production. Anyone who doubts the link between food prices and agricultural investment should take a close look at the stock price of the world’s largest producer of agricultural equipment, John Deere. While most US shares have taken a beating, John Deere’s share price has doubled and has split two-for-one in the last two years. High food prices are encouraging farmers to invest heavily in new equipment. This pattern is being repeated across the world, with investments in equipment, storage and land improvements.

#### They are key to production and productivity

Kharas 8 (Homi, sr. fellow @ the Brookings Institute, July 29, http://www.brookings.edu/opinions/2008/0729\_food\_prices\_kharas.aspx)

#### More food is already being produced in response to higher prices: forecasts for cereals production in 2008 by the Food and Agriculture Organisation show a significant increase. This should come as no surprise. When prices fell steeply between 1997 and 2002, cereal production declined. Now that prices have risen back to the levels of the mid-1990s, cereal production has resumed its upward trend. Productivity is on the rise.

### Warfighting 1NC

#### Presidents have political incentives to cooperate with Congress over offensive operations – but requiring cooperation sends a signal of weakness to adversaries and hamstrings power projection

Michael A. Newton – 2012, Professor of the Practice of Law, Vanderbilt University Law School

Inadvertent Implications of the War Powers Resolution, Case Western Reserve Journal of International Law, vol 45, Fall 2012, [http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.10.Article.Newton.pdf](http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1%262.10.Article.Newton.pdf)

The corollary to this modern reality, and the second of three inadvertent implications of the Resolution, is that our enemies now focus on American political will as the Achilles heel of our vast capabilities. Prior to the War Powers Resolution, President Eisenhower understood that it was necessary to “seek the cooperation of the Congress. Only with that can we give the reassurance needed to deter aggression.”62 President Clinton understood the importance of clear communication with the Congress and the American people in order to sustain the political legitimacy that is a vital element of modern military operations. Justifying his bombing of targets in Sudan, he argued that the “risks from inaction, to America and the world, would be far greater than action, for that would embolden our enemies, leaving their ability and their willingness to strike us intact.” 63 In his letter to Congress “consistent with the War Powers Resolution,” the president reported that the strikes “were a necessary and proportionate response to the imminent threat of further terrorist attacks against U.S. personnel and facilities” and “were intended to prevent and deter additional attacks by a clearly identified terrorist threat.” 64 The following day, in a radio address to the nation, the president explained his decision to take military action, stating, “Our goals were to disrupt bin Laden’s terrorist network and destroy elements of its infrastructure in Afghanistan and Sudan. And our goal was to destroy, in Sudan, the factory with which bin Laden’s network is associated, which was producing an ingredient essential for nerve gas.” 65 Citing “compelling evidence that the bin Laden network was poised to strike at us again” and was seeking to acquire chemical weapons, the president declared that we simply could not ignore the threat posed, and hence ordered the strikes.66 Similarly, President Clinton understood that intervention in Bosnia could not be successful absent some national consensus, which had been slow to form during the long Bosnian civil war.67 Secretary of State George Schultz provided perhaps the most poignant and pointed example of this truism in his testimony to Congress regarding the deployment of US Marines into Lebanon to separate the warring factions in 1982. On September 21, 1983, he testified before the Senate Foreign Relations Committee and provided a chilling premonition of the bombing that would come only one month later and kill 241 Americans, which was the bloodiest day in the Marine Corps since the battle of Iwo Jima.68 Seeking to bolster legislative support and to better explain the strategic objectives, he explained that: It is not the mission of our marines or of the [Multinational Force in Lebanon] as a whole to maintain the military balance in Lebanon by themselves. Nevertheless, their presence remains one crucial pillar of the structure of stability. They are an important deterrent, a symbol of the international backing behind the legitimate Government of Lebanon, and an important weight in the scales. To remove the marines would put both the Government and what we are trying to achieve in jeopardy. This is why our domestic controversy over the war powers has been so disturbing. Uncertainty about the American commitment can only weaken our effectiveness. Doubts about our staying power can only cause political aggressors to discount our presence or to intensify their attacks in hopes of hastening our departure. An accommodation between the President and Congress to resolve this dispute will help dispel those doubts about our staying power and strengthen our political hand.69 Following the spectacularly successful terrorist attack on the Marine barracks in Beirut, President Reagan withdrew the Marines. Osama bin Laden later cited this as an example of American weakness that could not withstand the jihadist fury he sought.70 The legal battles over the scope and effect of the War Powers Resolution have highlighted the focus on national political will as the fulcrum of successful military operations by requiring assurances that military operations are limited in nature, duration, and scope, and therefore well within the president’s constitutional authority as Commander-in-Chief and chief executive. President Obama’s report to Congress in the context of the Libya operations in 2011 cited precedent from air strikes in Bosnia that took just over two weeks and involved more than 2,300 US sorties and the deployment of US forces in Somalia in 1992 and Haiti in 1993.71 The White House released a memorandum from the OLC, similar to previous interventions, explaining how the authorization to use such force was constitutional on the basis that “‘war’ within the meaning of the [Constitution’s] Declaration of War Clause” does not encompass all military engagements, but only those that are “prolonged and substantial . . . typically involving exposure of U.S. military personnel to significant risk over a substantial period.” 72 President Obama consistently maintained that the US role in Libya was limited, unlikely to expose any US persons to attack (especially given the role of missiles and drones and the utter inability of Qaddafi’s forces to strike back with conventional means), and likely to end expeditiously.73 By that logic, it did not require authorization from Congress. The administration ultimately adopted a legal analysis that the US military’s activities fell short of “hostilities,” and thus, the president needed no permission from Congress to continue the mission after the expiration of the sixty-day reporting window specified in the War Powers Resolution.74 The president’s reasoning rested on previous OLC opinions that what counts as war depends on “a factspecific assessment of the ‘anticipated nature, scope, and duration’ of the planned military operations.” 75 Present justifications for bypassing the War Powers Resolution hinge on interpretations that it requires “prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period.” 76 The OLC engaged in similar reasoning in the Bosnia intervention in 1995, explaining that in deciding whether the proposed deployment into Bosnia amounted to a “‘war’ in the constitutional sense, considerable weight was given to the consensual nature and protective purposes of the operation.” 77 That deployment was similarly intended to be a limited mission but that mission, in contrast to the present one, was in support of an agreement that the warring parties had reached and it was at the invitation of the parties that led to the belief that little or no resistance to the deployment would occur. Though some scholars argued that the Libya OLC Memorandum defended its reasoning for why the operation did not amount to “war,” it did not address whether the administration believed that it will have to stop operations upon expiration of the sixty-ninety-day clock under the War Powers Resolution.78 The deadline passed with little fanfare. The memorandum also relied upon quite distinguishable precedent to serve as a guiding point in this intervention. Professor Goldsmith argued the opinion broke “new ground . . . in its extension of the ‘no war’ precedents beyond the Bosnia and Haiti situations—which involved consensual peacekeeping-like introductions of ground troops but no significant uses of force—to cover two weeks of non-consensual aerial bombardments.” 79 Thus, even as it incentivizes short term, limited deployments, the War Powers Resolution embeds an inevitable constitutional collision between the coordinate branches. Our enemies can rely upon constitutional carping from Congress, and in fact can adapt tactics and statements that seek to undermine political will in the US Congress and among the American people from the first days of an operation. The Resolution helps to ensure that such debates over the national political will take center stage sooner rather than later, and an asymmetric enemy can in theory erode our political will even before it solidifies.

#### Alt causes to power projection failure – Domestic gridlock and China

Jakarta Globe – 10/5/13, Robertus Wardi & Abdul Khalik , Obama’s Absence is Chance for China to Steal the Show, http://www.thejakartaglobe.com/news/obamas-absence-is-chance-for-china-to-steal-the-show/

The absence of US President Barack Obama at two key Asia meetings next week could be a pivotal moment in China’s dominance in the region, analysts here said, raising questions about the United States’ capacity to extend its influence to other parts of the world when it is forced to grapple with problems at home. On Thursday, Obama canceled his attendance in the Asia-Pacific Economic Cooperation (APEC) conference taking place in Bali from Oct. 7-8 and the East Asia Summit in Brunei later in the week, blaming the US government shutdown for the cancelation of a tour designed to advance a central prong of his foreign policy. Instead, US Secretary of State John Kerry will take Obama’s place so that the president can stay home to focus on the budget gridlock in Washington that triggered the first government shutdown in 17 years. Obama was scheduled to meet Russian President Vladimir Putin, Chinese President Xi Jinping and Japanese Prime Minister Shinzo Abe, among other leaders, at the summits. Two of his main aims would have been to discuss the Syria crisis with Putin and to hold talks on a maritime code of conduct for disputed territories in the oil- and gas-rich South China Sea. “We are disappointed,” Indonesian Information Minister Tifatul Sembiring said in Bali. “I think the summit will go on, there is a long-term plan. But without Obama, you can imagine how disappointed we are. We could hardly imagine he wouldn’t come.” Indonesian analysts said China looked to dominate the two meetings, and would come up with initiatives, while boosting further its aids, investment and trades with countries in Asia. “Obama’s cancelation clearly gives China an upper hand over the US in their rivalry for influence in the region,” Aleksius Jemadu, dean of Pelita Harapan University’s School of Social and Political Sciences, said. He said that while it was too soon to declare “the end of American hegemony in Asia with Obama’s failure to attend the meetings, US allies in the region would question the seriousness behind the rhetoric of Asia focus Obama administration has been trying to work on. “It may be too soon to say it’s the end of American empire as we know it because of this setback, as many parameters need to be reviewed. We, however, notice that there is something wrong with the way US runs its economy. I think at least in Asia, the signs of US losing influence are already apparent with China is aggressively investing and trading with countries in the region,” Aleksius said. Indonesian President Susilo Bambang Yudhoyono and Chinese President Xi Jinping on Thursday witnessed the signing of 23 new business agreements valued at almost $33 billion between the two nations, during the latter’s first trip to Southeast Asia since being elected. On Friday, Xi and Malaysian Prime Minister Najib Razak held a meeting soon after Obama canceled his trip to Kuala Lumpur with both countries set to elevate bilateral ties to a “comprehensive strategic partnership,” aiming to boost military cooperation and nearly triple two-way trade to $160 billion by 2017. China has been steadily increasing its influence in the region in recent years, and faced with China’s growing influence across the region, Obama announced in 2011 a pivot towards Asia as the US brought wars in Iraq and Afghanistan to an end. Malaysia is one of several Asian nations that has competing territorial claims with China over the resource-rich South China Sea, but it has kept a lower profile in the dispute than the Philippines and Vietnam and downplays regional concerns over Beijing’s rising military clout. Indonesian Defense University expert Bantarto Bandoro said China could fill the void left by the United States, which could be too preoccupied by domestic concerns. “If Obama decides not to attend APEC in Bali, then China could steal the show, and this could be a pivotal start of bigger influence in the future,” he said. “For now, US domestic political reality hinders the country’s capability and outreach to stage presence and influence far away from home. It could be the beginning of an end of American global dominance,” he said.

#### Their unit cohesion evidence from over a decade ago is too old – Iraq and Afghanistan should non-unique the link

#### National security scandals had decimated US soft power and our ability to export institutions

Andranik Migranyan – 7/5/13, director of the Institute for Democracy and Cooperation in New York, Scandals Harm U.S. Soft Power, the National Interest, <http://nationalinterest.org/commentary/scandals-harm-us-soft-power-8695>

For the past few months, the United States has been rocked by a series of scandals. It all started with the events in Benghazi, when Al Qaeda-affiliated terrorists attacked the General Consulate there and murdered four diplomats, including the U.S. ambassador to Libya. Then there was the scandal exposed when it was revealed that the Justice Department was monitoring the calls of the Associated Press. The Internal Revenue Service seems to have targeted certain political groups. Finally, there was the vast National Security Agency apparatus for monitoring online activity revealed by Edward Snowden. Together, these events provoke a number of questions about the path taken by contemporary Western societies, and especially the one taken by America. Large and powerful institutions, especially those in the security sphere, have become unaccountable to the public, even to representatives of the people themselves. Have George Orwell’s cautionary tales of total government control over society been realized? At the end of the 1960s and the beginning of the 1970s, my fellow students and I read Orwell’s 1984 and other dystopian stories and believed them to portray fascist Germany or the Soviet Union—two totalitarian regimes—but today it has become increasingly apparent that Orwell, Huxley and other dystopian authors had seen in their own countries (Britain and the United States) certain trends, especially as technological capabilities grew, that would ultimately allow governments to exert total control over their societies. The potential for this type of all-knowing regime is what Edward Snowden revealed, confirming the worst fears that the dystopias are already being realized. On a practical geopolitical level, the spying scandals have seriously tarnished the reputation of the United States. They have circumscribed its ability to exert soft power; the same influence that made the U.S. model very attractive to the rest of the world. This former lustre is now diminished. The blatant everyday intrusions into the private lives of Americans, and violations of individual rights and liberties by runaway, unaccountable U.S. government agencies, have deprived the United States of its authority to dictate how others must live and what others must do. Washington can no longer lecture others when its very foundational institutions and values are being discredited—or at a minimum, when all is not well “in the state of Denmark.” Perhaps precisely because not all is well, many American politicians seem unable to adequately address the current situation. Instead of asking what isn’t working in the government and how to ensure accountability and transparency in their institutions, they try, in their annoyance, to blame the messenger—as they are doing in Snowden’s case. Some Senators hurried to blame Russia and Ecuador for anti-American behavior, and threatened to punish them should they offer asylum to Snowden. These threats could only cause confusion in sober minds, as every sovereign country retains the right to issue or deny asylum to whomever it pleases. In addition, the United States itself has a tradition of always offering political asylum to deserters of the secret services of other countries, especially in the case of the former Soviet Union and other ex-socialist countries. In those situations, the United States never gave any consideration to how those other countries might react—it considered the deserters sources of valuable information. As long as deserters have not had a criminal and murderous past, they can receive political asylum in any country that considers itself sovereign and can stand up to any pressure and blackmail. Meanwhile, the hysteria of some politicians, if the State Department or other institutions of the executive branch join it, can only accelerate the process of Snowden’s asylum. For any country he might ask will only be more willing to demonstrate its own sovereignty and dignity by standing up to a bully that tries to dictate conditions to it. In our particular case, political pressure on Russia and President Putin could turn out to be utterly counterproductive. I believe that Washington has enough levelheaded people to understand that fact, and correctly advise the White House. The administration will need sound advice, as many people in Congress fail to understand the consequences of their calls for punishment of sovereign countries or foreign political leaders that don’t dance to Washington’s tune. Judging by the latest exchange between Moscow and Washington, it appears that the executive branches of both countries will find adequate solutions to the Snowden situation without attacks on each other’s dignity and self-esteem. Russia and the United States are both Security Council members, and much hinges on their decisions, including a slew of common problems that make cooperation necessary. Yet the recent series of scandals has caused irreparable damage to the image and soft power of the United States. I do not know how soon this damage can be repaired. But gone are the days when Orwell was seen as a relic of the Cold War, as the all-powerful Leviathan of the security services has run away from all accountability to state and society. Today the world is looking at America—and its model for governance—with a more critical eye.

#### Aff causes a fight between the President and Congress before every deployment – destroys US diplomacy – turns softer power and allied coop

Michael A. Newton – 2012, Professor of the Practice of Law, Vanderbilt University Law School

Inadvertent Implications of the War Powers Resolution, Case Western Reserve Journal of International Law, vol 45, Fall 2012, [http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.10.Article.Newton.pdf](http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1%262.10.Article.Newton.pdf)

The War Powers Resolution is an outdated and demonstrably irrelevant relic of a bygone era of American political life. Its vestigial remains nevertheless result in heated debates between the coordinate branches of the federal government. This is especially true in the modern era of uncertainty regarding the precise scope of international authority for the use of force. At the time of this writing, debate continues over the adoption of the crime of aggression in the Rome Statute of the International Criminal Court. Current texts require that trans-state aggression must be “manifest” in order to warrant criminal sanction.87 The function of the threshold is twofold. First, it implies a magnitude test by referring to the gravity and scale of the act of aggression. Second, by referring to the character, the threshold poses a qualitative requirement: the state use of force must be unambiguously illegal. This qualitative aspect is very important because there has been extensive debate on whether Article 2(4) of the UN Charter is dead or useless because of its complete indeterminacy.88 The prohibition arising from international law on the use of force is surrounded by a legal grey area of some significance. The scope of anticipatory self-defense and forcible rescue operations at this juncture as well as some forms of humanitarian intervention remain defensible but unclear under international law. 89 In all those cases, reasonable international lawyers may disagree about the current state of the law. It would be thoroughly unwise to try to clarify this grey area through the back door of the international criminal justice system, and it is my opinion that the International Criminal Court should avoid these murky waters. However, unresolved domestic debates over the War Powers Resolution run the risk of undermining the US posture in these diplomatic debates even as they weaken national resolve and undermine the efficiency of our deployed forces. The War Powers Resolution should be repealed and replaced with a more modern and flexible formulation that balances these important needs and helps to ensure a synergy between the coordinate branches of government and the forces in the field.

#### Squo solves international cooperation and mutual restraint – Obama Doctrine

Aziz 13 (Omer, graduate student at Cambridge University, is a researcher at the Center for International and Defense Policy at Queen’s University, “The Obama Doctrine's Second Term,” Project Syndicate, 2-5, <http://www.project-syndicate.org/blog/the-obama-doctrine-s-second-term--by-omer-aziz>)

The Obama Doctrine’s first term has been a remarkable success. After the $3 trillion boondoggle in Iraq, a failed nation-building mission in Afghanistan, and the incessant saber-rattling of the previous Administration, President Obama was able to reorient U.S. foreign policy in a more restrained and realistic direction. He did this in a number of ways. First, an end to large ground wars. As Defense Secretary Robert Gates put it in February 2011, anyone who advised future presidents to conduct massive ground operations ought “to have [their] head examined.” Second, a reliance on Secret Operations and drones to go after both members of al Qaeda and other terrorist outfits in Pakistan as well as East Africa. Third, a rebalancing of U.S. foreign policy towards the Asia-Pacific — a region neglected during George W. Bush's terms but one that possesses a majority of the world’s nuclear powers, half the world’s GDP, and tomorrow’s potential threats. Finally, under Obama's leadership, the United States has finally begun to ask allies to pick up the tab on some of their security costs. With the U.S. fiscal situation necessitating retrenchment, coupled with a lack of appetite on the part of the American public for foreign policy adventurism, Obama has begun the arduous process of burden-sharing necessary to maintain American strength at home and abroad. What this amounted to over the past four years was a vigorous and unilateral pursuit of narrow national interests and a multilateral pursuit of interests only indirectly affecting the United States. Turkey, a Western ally, is now leading the campaign against Bashar al-Assad’s regime in Syria. Japan, Korea, India, the Philippines, Myanmar, and Australia all now act as de facto balancers of an increasingly assertive China. With the withdrawal of two troop brigades from the continent, Europe is being asked to start looking after its own security. In other words, the days of free security and therefore, free riding, are now over. The results of a more restrained foreign policy are plentiful. Obama was able to assemble a diverse coalition of states to execute regime-change in Libya where there is now a moderate democratic government in place. Libya remains a democracy in transition, but the possibilities of self-government are ripe. What’s more, the United States was able to do it on the cheap. Iran’s enrichment program has been hampered by the clandestine cyber program codenamed Olympic Games. While Mullah Omar remains at large, al Qaeda’s leadership in Afghanistan and Pakistan has been virtually decimated. With China, the United States has maintained a policy of engagement and explicitly rejected a containment strategy, though there is now something resembling a cool war — not yet a cold war — as Noah Feldman of Harvard Law School puts it, between the two economic giants. The phrase that best describes the Obama Doctrine is one that was used by an anonymous Administration official during the Libya campaign and then picked up by Republicans as a talking point: Leading From Behind. The origin of the term dates not to weak-kneed Democratic orthodoxy but to Nelson Mandela, who wrote in his autobiography that true leadership often required navigating and dictating aims ‘from behind.’ The term, when applied to U.S. foreign policy, has a degree of metaphorical verity to it: Obama has led from behind the scenes in pursuing terrorists and militants, is shifting some of the prodigious expenses of international security to others, and has begun the U.S. pivot to the Asia-Pacific region. The Iraq War may seem to be a distant memory to many in North America, but its after-effects in the Middle East and Asia tarnished the United States' image abroad and rendered claims to moral superiority risible. Leading From Behind is the final nail in the coffin of the neoconservatives' failed imperial policies.

#### Soft power fails - empirics

Drezner 11

Daniel W. Drezner, Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University, Foreign Affairs, July/August 2011, "Does Obama Have a Grand Strategy?", <http://www.foreignaffairs.com/print/67869>

What went wrong? The administration, and many others, erred in believing that improved standing would give the United States greater policy leverage. The United States' standing among foreign publics and elites did rebound. But this shift did not translate into an appreciable increase in the United States' soft power. Bargaining in the G-20 and the UN Security Council did not get any easier. Soft power, it turns out, cannot accomplish much in the absence of a willingness to use hard power. The other problem was that China, Russia, and other aspiring great powers did not view themselves as partners of the United States. Even allies saw the Obama administration's supposed modesty as a cover for shifting the burden of providing global public goods from the United States to the rest of the world. The administration's grand strategy was therefore perceived as promoting narrow U.S. interests rather than global public goods.

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#### 11 alt causes to expanded executive power – aff can’t reverse

WILLIAM P. MARSHALL – 2008, Professor of Law, University of North Carolina, ELEVEN REASONS WHY PRESIDENTIAL POWER INEVITABLY EXPANDS AND WHY IT MATTERS, BOSTON UNIVERSITY LAW REVIEW [Vol. 88:505, http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/MARSHALL.pdf

Specifically, I contend that the power of the Presidency has been expanding since the Founding, and that we need to consider the implications of this expansion within the constitutional structure of separation of powers, no matter which party controls the White House. Part I of this Essay makes the descriptive case by briefly canvassing a series of factors that have had, and continue to have, the effect of expanding presidential power. Part II suggests this expansion in presidential power has created a constitutional imbalance between the executive and legislative branches, calling into doubt the continued efficacy of the structure of separation of powers set forth by the Framers. Part III then offers some suggestions as to how this power imbalance can be alleviated, but it does not present a silver bullet solution. Because many, if not all, the factors that have led to increased presidential power are the products of inevitable social and technological change, they are not easily remedied.3 Thus, the Essay ends with only the modest conclusion that regardless of who wins the Presidency, it is critical that those on both sides of the aisle work to assure that the growth in presidential power is at least checked, if not reversed. I. THE EXPANSION IN PRESIDENTIAL POWER A. Background The notion that presidential power has expanded exponentially since the time of the framing is, of course, uncontestable.4 The extent of that growth, however, is not always fully appreciated. At the time of the framing, for example, Madison, among others, believed the legislature was the most powerful branch,5 and for that reason he supported the creation of a bicameral legislature.6 Congress needed to be divided into two branches so that it would not overwhelm the other branches.7 Correspondingly, the executive needed to be unitary so that it would not be weakened in its battles with the legislature.8 Two hundred years later, any suggestion that Congress is twice as powerful as the executive would be deemed ludicrous.9 Particularly in the areas of national security and foreign affairs,10 the Presidency has become the far morepowerful branch. 11 In 2006, for example, a new Congress was elected based in large part on the desire of the American people to get out of an unpopular war.12 Yet, the President was able to use his authority to continually out maneuver the newly-elected Congress and pursue a war that even many of those in his own party opposed.13 It would be a mistake, however, to assume that the expansion of presidential power vis-à-vis the other branches is only a recent development.14 Justice Jackson recognized this trend over fifty years ago when he wrote in Youngstown Sheet & Tube Co. v. Sawyer: 15 [I]t is relevant to note the gap that exists between the President’s paper powers and his real powers. The Constitution does not disclose the measure of the actual controls wielded by the modern presidential office. That instrument must be understood as an Eighteenth-Century sketch of a government hoped for, not as a blueprint of the Government that is. Vast accretions of federal power, eroded from that reserved by the States, have magnified the scope of presidential activity. Subtle shifts take place in the centers of real power that do not show on the face of the Constitution. Executive power has the advantage of concentration in a single head in whose choice the whole Nation has a part, making him the focus of public hopes and expectations. In drama, magnitude and finality his decisions so far overshadow any others that almost alone he fills the public eye and ear. No other personality in public life can begin to compete with him in access to the public mind through modern methods of communications. By his prestige as head of state and his influence upon public opinion he exerts a leverage upon those who are supposed to check and balance his power which often cancels their effectiveness.16 Notably, the reasons Justice Jackson offered as to why power has concentrated in the executive go far beyond the ambitions and personalities of those who have held the office.17 Rather, they are the inevitable results of technological, social, and legal changes encompassing a variety of factors.18 These factors include: 1) the constitutional indeterminacy of presidential power, 2) the precedential effects of executive branch action, 3) the role of executive-branch lawyering 4) the expansion of the federal executive branch, 5) presidential control of the administrative state, 6) presidential access to and control of information, 7) the inter-relationship between the media and the Presidency, 8) the role of the Presidency in popular culture, 9) military and intelligence capabilities, 10) the need for the government to act quickly, and 11) the rise of a strong two-party system in which party loyalty trumps institutional prerogative. I shall discuss each of these factors in turn. B. Reasons Why Presidential Power Continues to Expand 1. The Constitutional Indeterminacy of the Presidency The first and perhaps overarching reason underlying the growth of presidential power is that the constitutional text on the subject is notoriously unspecific, allowing as one writer maintains, for the office “to grow with the developing nation.”19 Unlike Article I, which sets forth the specific powers granted to Congress,20 the key provisions of Article II that grant authority to the President are written in indeterminate terms such as “executive power,”21 or the duty “to take care that the laws be faithfully executed.”22 Moreover, unlike the other branches, the Presidency has consistently been deemed to possess significant inherent powers.23 Thus, many of the President’s recognized powers, such as the authority to act in times of national emergency24 or the right to keep advice from subordinates confidential,25 are nowhere mentioned in the Constitution itself. In addition, case law on presidential power is underdeveloped. Unlike the many precedents addressing Congressional26 or federal judicial27 power, there are remarkably few Supreme Court cases analyzing presidential power. And the leading case on the subject, Youngstown Sheet & Tube Co. v. Sawyer, 28 is known less for its majority opinion than for its concurrence by Justice Jackson, an opinion primarily celebrated for its rather less-than-definitive announcement that much of presidential power exists in a “zone of twilight.”29 Accordingly, the question whether a President has exceeded her authority is seldom immediately obvious because the powers of the office are so openended.30 This fluidity in definition, in turn, allows presidential power to readily expand when factors such as national crisis, military action, or other matters of expedience call for its exercise.31 Additionally, such fluidity allows political expectations to affect public perceptions of the presidential office in a manner that can lead to expanded notions of the office’s power.32 This perception of expanded powers, in turn, can then lead to the perceived legitimacy of the President actually exercising those powers. Without direct prohibitions to the contrary, expectations easily translate into political reality.33 2. The Precedential Effects of Executive Branch Action Presidential power also inevitably expands because of the way executive branch precedent is used to support later exercises of power.34 Many of the defenders of broad presidential power cite historical examples, such as President Lincoln’s suspension of habeas corpus, as authority for the position that Presidents have considerable powers in times of war and national emergency.35 Their position is straight-forward. The use of such powers by previous Presidents stands as authority for a current or future President to engage in similar actions.36 Such arguments have considerable force, but they also create a one-way ratchet in favor of expanding the power of the presidency. The fact is that every President but Lincoln did not suspend habeas corpus. But it is a President’s action in using power, rather than forsaking its use, that has the precedential significance.37 In this manner, every extraordinary use of power by one President expands the availability of executive branch power for use by future Presidents. 3. The Role of Executive Branch Lawyering The expansion of presidential power is also a product of executive branch lawyering. Because of justiciability limitations, many of the questions surrounding the scope of presidential power, such as war powers,38 never reach the courts.39 In these circumstances, the Department of Justice (DOJ) and its Office of Legal Counsel (OLC), the division that is charged with advising the President as to the scope of his or her powers, are the final legal authorities opining on these issues.40 This means, in effect, that the executive branch is the final judge of its own authority. Not surprisingly, this dynamic leads to broad interpretations of executive power for a variety of reasons.41 To begin with, the President, simply by his power of appointment, can assure that his Attorney General views the primary duty of the office is to empower the administration and not to some abstract, dispassionate view of the law.42 President Kennedy selected his brother to be Attorney General, President Nixon his campaign manager. Neither appointment, I suspect, was based on the desire to have a recalcitrant DOJ. Moreover, even when the President chooses a person renowned for her independence, the pressures to bend to the President’s will are considerable. Not only does the Attorney General act under the threat of removal, but she is likely to feel beholden to the President and bound, at least in part, by personal loyalty.43 Some might argue that even if the Attorney General may be overly susceptible to the influence of the President who appointed her, the same should not be true of the career legal staff of the DOJ, many of whom see their role as upholding the Constitution rather than implementing any President’s specific agenda. But the ability of the line lawyers at DOJ to effectively check executive branch power may be more illusory than real. First, the lawyers in the DOJ are likely to have some disposition in favor of the government if only because their clients are the President and the executive branch.44 Second, those DOJ lawyers who are hired for their ideological and political support of the President will likely have little inclination to oppose the President’s position in any case. Third, as a recent instance at DOJ demonstrates, the President’s political appointees can always remove or redeploy staff attorneys if they find them too independent.45 Fourth, even if some staff lawyers have initial resistance to the President’s position, the internal pressures created by so-called “group-think” may eventually take over.46 The ability of a staff attorney to withstand the pressures of her peers in adhering to legal principle in the face of arguments based on public safety or national security can often be tenuous, particularly when the result of nay-saying may lead the lawyer to exile in a less attractive assignment. To be sure, the DOJ has, at times, viewed itself as a truly independent voice. Attorney General Edward Bates, appointed by Lincoln reportedly stated that it was his duty “to uphold the Law and to resist all encroachments, from whatever quarter of mere will and power.”47 Robert H. Jackson, in contrast, looking back from the perch of a Supreme Court Justice, saw his role as the Attorney General during the Roosevelt Administration otherwise, describing in one case the opinion he offered as Attorney General as “partisan advocacy.”48 But whatever the views of those individuals holding the position of Attorney General, those views are, at best, only of secondary importance. Far more important are the views of the Presidents who appoint the Attorneys General, and in this respect the positions of the occupants of the White House have been consistent. As one study states, “[t]he President expects his Attorney General . . . to be his advocate rather than an impartial arbiter, a judge of the legality of his action.”49 Under such a system, the pressure for DOJ to develop expansive interpretations of presidential power is inexorable. 4. The Growth of the Executive Branch A further reason for the growth of presidential power relates to the expansion of the federal executive branch. The massive federal bureaucracy existing today extends far beyond what the framers likely imagined.50 And significantly, for our purposes, the head of that bureaucracy is the President who thereby has all the capabilities and powers of the administrative state at his disposal.51 The substantive scope of his authority, moreover, is breathtaking.52 The President leads a federal bureaucracy that, among other powers, sets pollution standards for private industry, regulates labor relations, creates food and product safety standards, manages the nation’s lands and natural resources, enforces the federal criminal law, oversees the banking industry, and governs a host of other activities too numerous to mention.53 This may not have been the way it was intended. As Gary Lawson has written, it is questionable whether the delegation of powers to the executive, upon which the administrative state is based, is consistent with the original understanding.54 Yet whether consistent with the Framers’ design or not, the expansion of the federal bureaucracy necessarily invests the Presidency with enormous powers.55 And as the federal bureaucracy continues to expand, so does the power of the Presidency.56 Indeed, even if Congress were able to limit the President’s direct control over the administrative state (a matter that will be discussed in the next Subsection), the President’s powers stemming from an expanded federal bureaucracy would still increase, if only through his powers of appointment. 5. Presidential Control of the Administrative State Related to the expansion of the federal administrative bureaucracy is the increased ability of the president to control that bureaucracy. For many years, the federal bureaucracy stood literally as a “fourth branch of government,” enjoying considerable independence from both Congress and the Presidency.57 Recently, however, as Deans Harold Krent58 and Elena Kagan have stated,59 Presidents are beginning to control the federal bureaucracy for their own political agendas in a manner that has not occurred previously. Krent demonstrates how President George W. Bush has been able to circumvent congressional efforts to delegate decision making to office holders and to retain such authority for himself,60 while Kagan shows how President Clinton was able to use directives and other measures to more effectively control and claim ownership of agency action.61 The Clinton and Bush Presidencies will likely serve as lessons to future administrations, suggesting that increased control of the federal bureaucracy is yet another way that presidential power will continue to expand. 6. Presidential Access to and Control of Information If, “[i]n the information age, information is power”62 then most of that power rests with the executive. Because of its vast resources, the executive branch has far greater access to information than do the co-branches of government.63 In addition, the executive branch has far greater ability and expertise to gather, examine, and cull that information than do the transitory legislative staffs in the Congress. Congress, for example, does not have at its disposal the information gathering capabilities of the intelligence agencies or the technical expertise of the military in determining when there is a threat to national security.64 Instead, it must rely on the executive for that appraisal and therefore must continually negotiate with the executive from a position of weakness and dependence.65 Moreover, this disparity in access and control of information is only likely to worsen as the world becomes more complex, because complexity necessarily requires increasingly sophisticated methods of information collection, analysis, distillation, and dissemination. And because only the executive branch is likely to have the expertise and the resources to perform these functions, its relative powers will again increase. 7. The Media and the Presidency As Justice Jackson recognized in Youngstown, the power of the Presidency has also been magnified by the nature of media coverage. This coverage, which focuses on the President as the center of national power,66 has only increased since Jackson’s day as the dominance of television has increasingly identified the image of the nation with the image of the particular President holding office.67 The effects of this image are substantial. Because the President is seen as speaking for the nation, the Presidency is imbued with a unique credibility. The President thereby holds an immediate and substantial advantage in any political confrontation.68 Additionally, unlike the Congress or the Court, the President is uniquely able to demand the attention of the media and, in that way, can influence the Nation’s political agenda to an extent that no other individual, or institution, can even approximate. 8. The Presidency in Popular Culture Relatedly, the role of the institution of the President in popular culture also enhances presidential power. As numerous commentators have noted, the public often perceives national power as directly related to the power of the incumbent President.69 For that reason, the citizenry tends to rally behind the President because he is seen as standing for the country.70 This is why the citizenry tends to become invested in a President as soon as he is elected, and is why his popularity always rises immediately after an election.71 Of course, it may be true that the perception of the President as all-powerful can work to his detriment in that he can be held responsible, sometimes unfairly, for matters that are beyond his control.72 But the fact that the President is held responsible in these circumstances is a testament to his perceived power and authority. To be sure, the role of public culture in enhancing the power of the presidency is not exclusively a modern phenomenon. Efforts were made to create a popular mythology surrounding the President as far back as President Washington.73 But as the political and popular culture surrounding the Presidency continue to coalesce, a sitting President’s ability to use popular culture for political benefit is seemingly enhanced as well.74 9. Military and Intelligence Capabilities The President’s power is also enhanced by the vast military and intelligence capabilities under his command. In his roles as Commander-in-Chief and head of the Executive Branch, the President directly controls the most powerful military in the world and directs clandestine agencies such as the Central Intelligence Agency and National Security Agency.75 That control provides the President with immensely effective, non-transparent capabilities to further his political agenda and/or diminish the political abilities of his opponents. 76 Whether a President would cynically use such power solely for his political advantage has, of course, been the subject of political thrillers and the occasional political attack. President Clinton, for one, was accused of ordering the bombing of terrorist bases in Afghanistan to distract the nation from the Lewinsky scandal,77 and President Nixon purportedly used the Federal Bureau of Investigation to investigate his political enemies.78 But regardless whether such abuses actually occurred, there is no doubt that control of covert agencies provides ample opportunity for political mischief, particularly since the inherently secretive nature of these agencies means their actions often are hidden from public view. And as the capabilities of these agencies increase through technological advances in surveillance and other methods of investigation, so does the power of the President. 10. The Need for Government To Act Quickly Presidential power also has increased because of the exigencies of decision making in the modern world. At the time of the founding, it would take weeks, if not months, for a foreign government to attack American soil. In the twenty-first century, the weapons of war take only seconds to arrive. The increased speed of warfare necessarily vests power in the institution that is able to respond the fastest – the presidency, not the Congress.79 Consequently, the President has unparalleled ability to direct the nation’s political agenda.80 The power that comes with being the first to act, moreover, does not end when the immediate emergency is over. Decisions made in times of emergency are not easily reversed; this is particularly true in the context of armed conflict. The President’s commitment of troops inevitably creates a “rally round the flag” reaction that reinforces the initial decision.81 As Vietnam and now Iraq have shown, Congress is likely to be very slow in second guessing a President’s decision that places soldiers’ lives in harm’s way. That Congress would use its powers (as opposed to its rhetoric) to directly confront the President by cutting off military appropriations seems fanciful. 11. The Inceasingly Polarized Two-Party System The final reason why presidential power has increased relates to the rise of a highly polarized two-party system in which party loyalty trumps institutional concerns. The beginnings of this polarization can be traced to the enactment of the Civil Rights Act of 1964.82 The passage of that Act ended an era that had effectively been a three-party system in the United States: the northern Democrats, the southern Democrats, and the Republicans. During this “threeparty” era, members of Congress needed to work across party lines to develop working majorities on particular issues.83 Their political fortunes and reputations, therefore, were closely tied to the success of Congress as an institution. In contrast, in the highly polarized two-party system currently dominating national politics, a member’s political success depends more on the fortunes of her particular party than on the stature of Congress. This means members of Congress have a greater personal interest in the President’s success as leader of their party than they have in Congress as an institution. Correspondingly, because the President is the leader of his or her political party, the President can expect greater loyalty and discipline from party members than occurred in previous eras. The result of this is that when the President’s party controls the Congress, he or she can proceed virtually uncontested.84 Consequently, in an era of highly polarized parties, there no longer exists the constitutional balance purportedly fostered by separation of powers. Rather, the constitutional balance becomes what Daryl Levinson and Richard Pildes term a “separation of parties.”85 The problem, of course, is that separation of parties serves as no balance at all when both the Presidency and the Congress are controlled by the same party. In those circumstances, the power of the Presidency is effectively unchecked.

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#### Modeling isn’t reverse causal—takes too long to adapt

Chodosh 03 (Hiram, Professor of Law, Director of the Frederick K. Cox International Law Center, Case Western Reserve University School of Law, 38 Tex. Int'l L.J. 587, lexis)

Exposure to foreign systems is helpful but seldom sufficient for effective reform design. Reform models are more likely to be successful if they are not merely copied or transplanted into the system. The argument that transplants are easy and common (though based on substantial historical evidence) profoundly undervalues the relationship between law and external social objectives.

103 Furthermore, reforms conceived as blunt negations of [\*606] the status quo are not likely to be successful. 104 Reform proposals based on foreign systems or in reaction to (or as a negation of) recent domestic experience require careful adaptation to local circumstances and conditions. However, most communities are not familiar with the tools of adaptation and tend to think of foreign models as package deals to accept or reject (but rarely to alter), and alterations tend to graft one institution onto another without comprehensive consideration of the system as a whole. 105

#### If executive war powers erode SOP, then they should have read whole rez – torture, wire-tapping, indefinite detention are all alt causes

Horowitz,2/6/12 - As co-founder of PolicyMic, Jake is managing the writing and editing process and trying to spark thoughtful debate on important political issues. He graduated from Stanford University (Jake, “Why is the U.S. Constitution Losing Influence Across the World?,”

http://www.policymic.com/articles/3975/why-is-the-u-s-constitution-losing-influence-across-the-world

But, my sense is that the Constitution is slipping because America has lost its power and prestige as a shining democracy due to over a decade of constitutional excess. In particular, the Bush administration's War on Terror policies which interpreted the Constitution to permit torture, deprive suspected terrorists of due process, sanction wire-tapping and domestic spying, and amass unprecedented power in the hands of the executive eroded the credibility of the document and undermined our democracy. After a decade of America's imprisoning and torturing Arab citizens under the guise of the Constitution, it is no wonder that it no longer holds any weight in newly emerging democracies like Egypt and Tunisia. Moreover, the decline in influence is also a reflection of the all-too-often forgotten fact that American liberal democracy is not for every country. The U.S. Constitution guarantees certain rights, like the separation of religion and state, which may not neatly fit into other countries' models of democracy. Stanford democracy expert Larry Diamond has written often about public opinion polling of the Arab world, which indicates that although the majority of Arabs want democracy, they also believe Islam should play a strong role in governing their society. The U.S. Constitution, then, provides little guidance for structuring newly emer ging democracies with more devout populations. Although the decline of the Constitution is likely to unnerve the bevy of IR theorists and pundits who routinely lament America's decline, this study is not necessarily cause for concern. Rather, that emerging democracies are adapting democracy to fit their context serves as a powerful reminder that liberal democracy cannot be imposed from the outside, something the U.S. learned well this past decade in Iraq. It should also serve as a stark warning to President Barack Obama, however, that the longer Guantanamo remains open, and the more the administration chips away at our civil liberties by signing bills like the NDAA, the more U.S. influence, leadership, and credibility will wane across the globe.

#### Long timeframe

Diamond, 00 (Larry Diamond, professor, lecturer, adviser, and author on foreign policy, foreign aid, and democracy. “Democracy Promotion for the Long Haul.” 11-30-00. http://www.stanford.edu/~ldiamond/papers/AIDpartners.pdf)

It will not do to promote free and fair elections if we do not effectively promote the other elements of democracy as well. And this is not a short-term agenda. A great danger in political assistance is the temptation to seek a big bang, a breakthrough election, and then phase out and walk way. If we want to be effective in promoting democracy, we have to be prepared to be engaged in countries for a long period of time, in a variety of sectors, and at multiple levels of governance. We have to stick with countries—at least with embattled civil societies—when things get grim, and we to sustain our efforts when a crisis subsides and democrats settle into the protracted, prosaic work of gradually building and reforming democratic institutions. We are swimming against long histories and huge odds. We cannot expect to be able to reverse decades of institutional deformity and decay and to transform deeply entrenched cultures and social structures in a few years. We need a strategic view of democracy promotion for the long term. Ten years on, in most of the countries where we work, we are still in the early stages of the struggle for liberal, accountable, legitimate, and sustainable democracy, in other words, for democratic consolidation.

### Solvency 1NC

#### Neither the courts nor Congress want to play a role in authorizing war – they won’t enforce the aff

Gene Healy 2009 (vice president at the Cato Institute) “Reclaiming the War Power” http://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2009/9/hb111-10.pdf

Each of these proposals has the merit of demanding that Congress carry the burden the Constitution places upon it: responsibility for the decision to go to war. The Gelb-Slaughter plan shows particular promise. Although Congress hasn’t declared war since 1942, reviving the formal declaration would make it harder for legislators to punt that decision to the president, as they did in Vietnam and Iraq. Hawks should see merit in making declarations mandatory, since a declaration commits those who voted for it to support the president and provide the resources he needs to prosecute the war successfully. Doves too should find much to applaud in the idea: forcing Congress to take a stand might concentrate the mind wonderfully and reduce the chances that we will find ourselves spending blood and treasure in conflicts that were not carefully examined at the outset. But we should be clear about the difficulties that comprehensive war powers reform entails. Each of these reforms presupposes a Congress eager to be held accountable for its decisions, a judiciary with a stomach for interbranch struggles, and a voting public that rewards political actors who fight to put the presidency in its place. Representative Jones’s Constitutional War Powers Resolution, which seeks to draw the judiciary into the struggle to constrain executive war making, ignores the Court’s resistance to congressional standing, as well as the 30-year history of litigation under the War Powers Resolution, a history that shows how adept the federal judiciary is at constructing rationales that allow it to avoid picking sides in battles between Congress and the president. Even if Jones’s Constitutional War Powers Resolution or Ely’s Combat Authorization Act could be passed today, and even if the courts, defying most past practice, grew bold enough to rule on whether hostilities were imminent, there would be still another difficulty; as Ely put it: ‘‘When we got down to cases and a court remanded the issue to Congress, would Congress actually be able to follow through and face the issue whether the war in question should be permitted to proceed? Admittedly, the matter is not entirely free from doubt.’’ It’s worth thinking about how best to tie Ulysses to the mast. But the problem with legislative schemes designed to force Congress to ‘‘do the right thing’’ is that Congress seems always to have one hand free. Statutory schemes designed to precommit legislators to particular procedures do not have a terribly promising track record. Historically, many such schemes have proved little more effective than a dieter’s note on the refrigerator. No mere statute can truly bind a future Congress, and in areas ranging from agricultural policy to balanced budgets, Congress has rarely hesitated to undo past agreements in the pursuit of short-term political advantage. A : 14431$CH10 11-11-08 14:18:58 Page 113 Layout: 14431 : Odd 113 C ATO H ANDBOOK FOR P OLICYMAKERS If checks on executive power are to be restored, we will need far less Red Team–Blue Team politicking—and many more legislators than we currently have who are willing to put the Constitution ahead of party loyalty. That in turn will depend on a public willing to hold legislators accountable for ducking war powers fights and ceding vast authority to the president. Congressional courage of the kind needed to reclaim the war power will not be forthcoming unless and until American citizens demand it.

#### Aff is circumvented – plan does none of the things 1ac author says is key – and the WPR proves enforcement is not normal means, so it won’t exist if the aff doesn’t explicitly fiat it

Lobel – 1ac author – 9

Jules Lobel, Professor of Law at the University of Pittsburgh, “Restore. Protect. Expand. Amend the War Powers Resolution,” Center for Constitutional Rights White Paper, http://ccrjustice.org/files/CCR\_White\_WarPowers.pdf

Reform the War Powers Resolution The War Powers Resolution has failed. Every president since the enactment of the Act has considered it to be unconstitutional. Presidents have generally not filed a report that would start the 60-day clock running, despite repeated executive introduction of armed forces into places like Indochina, Iran, Lebanon, Central America, Grenada, Libya, Bosnia, Haiti, Kosovo and Somalia, among others. Congress has usually not challenged this non-compliance. And, the judiciary has persistently refused to adjudicate claims challenging executive action as violating the War Powers Resolution, holding that members of Congress have no standing to seek relief, or that the claim presents non-justifiable political questions. The War Powers Resolution, as written, was flawed in several key respects. The first flaw was that the Resolution imposed no operative, substantive limitations on the executive’s power to initiate warfare, but rather created a time limit of 60 days on the president’s use of troops in hostile situations without explicit congressional authorization. This approach was a mistake, because as a practical matter it recognized that the President could engage in unilateral war-making for up to 60 days, or 90 days with an extension. But the Constitution requires that Congress provide authorization prior to initiating non-defensive war, not within a period of months after warfare is initiated. As history has demonstrated time and again, it is difficult to terminate warfare once hostilities have begun. The key time for Congress to weigh in is before hostilities are commenced, not 60 or 90 days afterward. Secondly, the War Powers Resolution correctly recognized that even congressional silence, inaction or even implicit approval does not allow the president to engage in warfare – but it failed to provide an adequate enforcement mechanism if the president did so. Under the resolution, wars launched by the executive were supposed to be automatically terminated after 60 or 90 days if not affirmatively authorized by Congress – but this provision proved unenforceable. Presidents simply ignored it, Congress had an insufficient interest in enforcing it and the courts responded by effectually saying: if Congress did nothing, why should we?

**<AFF CARD STARTS>**

Reforming the War Powers Resolution is a project that will require leadership from the President and the political will of Congress, working together in the service and preservation of the Constitution. In light of the abuses that have taken place under the Bush administration, it is the responsibility of a new administration to insist on transparency in the drafting of new legislation. There is a long history of attempts to revise the War Powers Resolution. As new legislation is drafted, though, it will be important to focus on the central constitutional issues. Much time has been spent in debating how to address contingencies. It will be impossible to write into law any comprehensive formula for every conceivable situation, though; much more important will be establishing the fundamental principles of reform: The War Powers Resolution should explicitly prohibit executive acts of war without previous Congressional authorization. The only exception should be the executive’s power in an emergency to use short-term force to repel sudden attacks on US territories, troops or citizens. It is true that many potential conflict situations will be murky, complicated or divisive, and that quick congressional action may not always be forthcoming. Yet, history shows the folly of launching wars that are not supported by the American people. The United States should not use military force until a substantial consensus develops in Congress and the public that military force is necessary, appropriate and wise. Today, as in 1787, the reality is that the interests of the people of the United States are best served if the Congress retains the power to declare war, and the President’s unilateral power to use American forces in combat should be reserved to repelling attacks on American troops or territories and evacuating citizens under actual attack. Repelling does not equate retaliation for an attack on an American city that occurred in the past, be it several days, weeks or months prior; it also does not mean launching a surprise invasion of a nation that has not attacked us. Repelling similarly does not permit the inflation of supposed threats against US citizens as justification to invade another country, as was the case in the Dominican Republic in 1965 and Grenada in 1983. The president can respond defensively to attacks that have been launched or are in the process of being launched, but not to rumors, reports, intuitions, or warnings of attacks. Preventive war, disguised as preemptive war, has no place in constitutional or international law. To ensure that this principle is enforced, new legislation should prohibit the use of appropriated funds for any executive use of force that is unauthorized under the statute. Furthermore, the reformed War Powers Resolution must allow room for judicial oversight in the case of conflicts. A president who initiates hostilities in disregard of the statute would undoubtedly use appropriated funds to do so, forcing Congress to make the difficult decision of whether to authorize funds for troops engaged in combat. The statute should therefore state that a presidential violation of the act would create an impasse with Congress, and that separation of powers principles require the Court to decide the merits of any challenge brought against an alleged violation. And, a presidential violation of this principle should be explicitly made an impeachable offense.

### Notes

The aff is a restriction on war powers but it is not a restriction on war

Following two argument chunks are useful if I decide to go for the K:

* Shift arguments
* Congress won’t check – doesn’t contain war powers because congress is totally okay with fighting wars. Only the alt provides a check

If going for the CP

* Go for the solvency “congress won’t enforce” stuff

If go for the K

* Congress has the tools but won’t use them
	+ Answers try or die
	+ It’s not a problem of institutional checks – it’s a problem of going to war
* Plan just makes it look more legit
* Prez has no ceiling he has to stay below post-plan – right now the president focuses on small interventions because anything larger violates the WPR, but after large scale interventions occur

# 2NC

### R2P

#### Legal contraints aren’t the answer – party loyalty determines if Congress will check the president

William G. Howell and Jon C. Pevehouse – 2007, Associate Professors at the Harris School of Public Policy at the University of Chicago, When Congress Stops Wars: Partisan Politics and Presidential Power, Foreign Affairs, Vol. 86, No. 5 (Sep. - Oct., 2007), pp. 95-107, http://themonkeycage.org/wp-content/uploads/2013/09/Howell-Pevehouse-2007-1.pdf

FOR MOST of George W. Bush's tenure, political observers have lambasted Congress for failing to fulfill its basic foreign policy obligations. Typical was the recent Foreign Affairs article by Norman Ornstein and Thomas Mann, "When Congress Checks Out," which offered a sweeping indictment of Congress' failure to monitor the president's execution of foreign wars and antiterrorist initiatives. Over the past six years, they concluded, congressional oversight of the White House's foreign and national security policy "has virtually collapsed." Ornstein and Mann's characterization is hardly unique. Numerous constitutional-law scholars, political scientists, bureau crats, and even members of Congress have, over the years, lamented the lack of legislative constraints on presidential war powers. But the dearth of congressional oversight between 2000 and 2006 is nothing new. Contrary to what many critics believe, terrorist threats, an overly aggressive White House, and an impotent Democratic Party are not the sole explanations for congressional inactivity over the past six years. Good old-fashioned partisan politics has been, and continues to be, at play. It is often assumed that everyday politics stops at the water's edge and that legislators abandon their partisan identities during times of war in order to become faithful stewards of their constitutional obligations. But this received wisdom is almost always wrong. The illusion of congressional wartime unity misconstrues the nature of legislative oversight and fails to capture the particular conditions under which members of Congress are likely to emerge as meaningful critics of any particular military venture. The partisan composition of Congress has historically been the decisive factor in determining whether lawmakers will oppose or acquiesce in presidential calls for war. From Harry Truman to Bill Clinton, nearly every U.S. president has learned that members of Congress, and members of the opposition party in particular, are fully capable of interjecting their opinions about proposed and ongoing military ventures. When the opposition party holds a large number of seats or controls one or both chambers of Congress, members routinely challenge the president and step up oversight of foreign conflicts; when the legislative branch is dominated by the president's party, it generally goes along with the White House. Partisan unity, not institutional laziness, explains why the Bush administration's Iraq policy received such a favorable hearing in Congress from 2000 to 2006. The dramatic increase in congressional oversight following the 2oo6 midterm elections is a case in point. Immediately after assuming control of Congress, House Democrats passed a resolution condemning a proposed "surge" of U.S. troops in Iraq and Senate Democrats debated a series of resolutions expressing varying degrees of outrage against the war in Iraq. The spring 2007 supplemental appropriations debate resulted in a House bill calling for a phased withdrawal (the president vetoed that bill, and the Senate then passed a bill accepting more war ftinding without withdrawal provisions). Democratic heads of committees in both chambers continue to launch hearings and investigations into the various mishaps, scandals, and tactical errors that have plagued the Iraq war. By all indications, if the govern ment in Baghdad has not met certain benchmarks by September, the Democrats will push for binding legislation that further restricts the president's ability to sustain military operations in Iraq.

#### R2P doesn’t cause interventionism and builds coalitions

NYT – 7/23/13, MARK LANDLER, U.S. Urged to Adopt Policy Justifying Intervention, <http://www.nytimes.com/2013/07/24/us/politics/us-urged-to-adopt-policy-justifying-intervention.html?_r=0>

Now, a new report written by Madeleine K. Albright, the former secretary of state, and Richard S. Williamson, a former special envoy to Sudan and foreign-policy adviser to Mitt Romney, argues that the administration should wholeheartedly embrace “responsibility to protect” and explain its importance to the American public. “R2P sounds like some chemical formula,” Dr. Albright said in an interview. “It’s in many ways a misunderstood concept; it’s up to us to clarify what ‘responsibility to protect’ means.” Mr. Williamson is blunter. “R2P is still struggling,” he said, in part because of the administration’s unwillingness to do more about Syria, which he criticized as an adviser to Mr. Romney during the 2012 presidential campaign. But Mr. Williamson, who served under President George W. Bush, said there were deeper reasons for the American aversion to foreign entanglements, having to with fatigue after a decade of war. “It’s a funny time in American politics when you have Rand Paul allying with the left about not getting involved overseas,” he said. To some critics, particularly on the right, R2P smacks of a multilateral approach to foreign policy that encroaches on American sovereignty. An aide to Mr. Corker, for example, said he wanted to make sure that Ms. Power concurred that the United States should only decide to act militarily based on its own national interests. Dr. Albright said such suspicions were based on two misconceptions, one narrow and one broad. “Responsibility to protect,” she said, calls for the use of numerous tools short of military force, from diplomacy to economic sanctions, to try to curb atrocities. More broadly, she said, building a multilateral coalition to deal with foreign conflicts actually strengthens the hand of the United States. The support of the United Nations Security Council and the Arab League for the NATO mission in Libya was a “force multiplier,” she said.

### SOP

#### No SOP crisis – the aff is just describing a historical snapshot

Rosman 96 [Michael E. Rosman (General Counsel @ Center for Individual Rights; JD from Yale); Review of “FIGHTING WORDS: INDIVIDUALS, COMMUNITIES AND LIBERTIES OF SPEECH”; Constitutional Commentary 96 (Winter, p. 343-345)]

Of course, the other branches also shove at the boundaries of branch power--FDR's Court-packing plan being one notable example of this practice. Sometimes the law of unintended consequences grabs hold. Perhaps the Court-packing plan concentrated the Justices' minds on finding ways to hold New Deal legislation constitutional, but it also blew up in FDR's face politically. At least for the last two hundred years, however, no branch has managed to expand its power to the point of delivering an obvious knock-out blow to another branch. Seen from this broader perspective, cases such as Morrison,(33) Bowsher v. Synar,(34) and Mistretta v. United States(35) surely alter the balance of branch power at a given historical moment, but do not change the fundamental and brute fact that the Constitution puts three institutional heavyweights into a ring where they are free to bash each other. Judicialocentrism tends to obscure this obvious point because it causes people to dwell on the hard cases that reach the Supreme Court. The power of separation of powers, however, largely resides in its ability to keep the easy cases from ever occurring. For instance, Congress, although it tries to weaken the President from time to time, has not tried to reduce the President to a ceremonial figurehead a la the Queen of England. Similarly, Congress does not make a habit of trying cases that have been heard by the courts. This list could be continued indefinitely. The Supreme Court has had two hundred years to muck about with separation-of-powers doctrine. Over that time, scores of Justices--each with his or her own somewhat idiosyncratic view of the law--have sat on the bench. Scholars have denounced separation-of-powers jurisprudence as a mess. But the Republic endures, at least more or less. These historical facts tend to indicate that the Court need not rush to change its approach to separation of powers to prevent a slide into tyranny.

#### If executive war powers erode SOP, then they should have read whole rez – torture, wire-tapping, indefinite detention are all alt causes

Horowitz,2/6/12 - As co-founder of PolicyMic, Jake is managing the writing and editing process and trying to spark thoughtful debate on important political issues. He graduated from Stanford University (Jake, “Why is the U.S. Constitution Losing Influence Across the World?,”

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But, my sense is that the Constitution is slipping because America has lost its power and prestige as a shining democracy due to over a decade of constitutional excess. In particular, the Bush administration's War on Terror policies which interpreted the Constitution to permit torture, deprive suspected terrorists of due process, sanction wire-tapping and domestic spying, and amass unprecedented power in the hands of the executive eroded the credibility of the document and undermined our democracy. After a decade of America's imprisoning and torturing Arab citizens under the guise of the Constitution, it is no wonder that it no longer holds any weight in newly emerging democracies like Egypt and Tunisia. Moreover, the decline in influence is also a reflection of the all-too-often forgotten fact that American liberal democracy is not for every country. The U.S. Constitution guarantees certain rights, like the separation of religion and state, which may not neatly fit into other countries' models of democracy. Stanford democracy expert Larry Diamond has written often about public opinion polling of the Arab world, which indicates that although the majority of Arabs want democracy, they also believe Islam should play a strong role in governing their society. The U.S. Constitution, then, provides little guidance for structuring newly emer ging democracies with more devout populations. Although the decline of the Constitution is likely to unnerve the bevy of IR theorists and pundits who routinely lament America's decline, this study is not necessarily cause for concern. Rather, that emerging democracies are adapting democracy to fit their context serves as a powerful reminder that liberal democracy cannot be imposed from the outside, something the U.S. learned well this past decade in Iraq. It should also serve as a stark warning to President Barack Obama, however, that the longer Guantanamo remains open, and the more the administration chips away at our civil liberties by signing bills like the NDAA, the more U.S. influence, leadership, and credibility will wane across the globe.

#### Long timeframe

Diamond, 00 (Larry Diamond, professor, lecturer, adviser, and author on foreign policy, foreign aid, and democracy. “Democracy Promotion for the Long Haul.” 11-30-00. http://www.stanford.edu/~ldiamond/papers/AIDpartners.pdf)

It will not do to promote free and fair elections if we do not effectively promote the other elements of democracy as well. And this is not a short-term agenda. A great danger in political assistance is the temptation to seek a big bang, a breakthrough election, and then phase out and walk way. If we want to be effective in promoting democracy, we have to be prepared to be engaged in countries for a long period of time, in a variety of sectors, and at multiple levels of governance. We have to stick with countries—at least with embattled civil societies—when things get grim, and we to sustain our efforts when a crisis subsides and democrats settle into the protracted, prosaic work of gradually building and reforming democratic institutions. We are swimming against long histories and huge odds. We cannot expect to be able to reverse decades of institutional deformity and decay and to transform deeply entrenched cultures and social structures in a few years. We need a strategic view of democracy promotion for the long term. Ten years on, in most of the countries where we work, we are still in the early stages of the struggle for liberal, accountable, legitimate, and sustainable democracy, in other words, for democratic consolidation.

## K

### \*\*Legitimacy Link/”Smart Weapons”

#### The aff's plan is a high-grade legal maneuver to create the legal cover for war - they bypass the complexities of moral choice by making the debate about who can be the best corporate warfare lawyer and find loopholes for the military to exploit

Smith 2 – prof of phil @ U of South Florida

(Thomas, *International Studies Quarterly* 46, The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence)

The role of military lawyers in all this has, according to one study, “changed irrevocably” ~Keeva, 1991:59!. Although liberal theorists point to the broad normative contours that law lends to international relations, the Pentagon wields law with technical precision. During the Gulf War and the Kosovo campaign, JAGs opined on the legal status of multinational forces, the U.S. War Powers Resolution, rules of engagement and targeting, country fly-overs, maritime interceptions, treatment of prisoners, hostages and “human shields,” and methods used to gather intelligence. Long before the bombing began, lawyers had joined in the development and acquisition of weapons systems, tactical planning, and troop training. In the Gulf War, the U.S. deployed approximately 430 military lawyers, the allies far fewer, leading to some amusing but perhaps apposite observations about the legalistic culture of America ~Garratt, 1993!. Many lawyers reviewed daily Air Tasking Orders as well as land tactics. Others found themselves on the ground and at the front. According to Colonel Rup- pert, the idea was to “put the lawyer as far forward as possible” ~Myrow, 1996–97!. During the Kosovo campaign, lawyers based at the Combined Allied Operations Center in Vicenza, Italy, and at NATO headquarters in Brussels approved every single targeting decision. We do not know precisely how decisions were taken in either Iraq or Kosovo or the extent to which the lawyers reined in their masters. Some “corrections and adjustments” to the target lists were made ~Shot- well, 1993:26!, but by all accounts the lawyers—and the law—were extremely accommodating.¶ The exigencies of war invite professional hazards as military lawyers seek to “find the law” and to determine their own responsibilities as legal counselors. A 1990 article in Military Law Review admonished judge advocates not to neglect their duty to point out breaches of the law, but not to become military ombuds- men either. The article acknowledged that the JAG faces pressure to demonstrate that he can be a “force multiplier” who can “show the tactical and political soundness of his interpretation of the law” ~Winter, 1990:8–9!. Some tension between law and necessity is inevitable, but over the past decade the focus has shifted visibly from restraining violence to legitimizing it. The Vietnam-era perception that law was a drag on operations has been replaced by a zealous “client culture” among judge advocates. Commanding officers “have come to realize that, as in the relationship of corporate counsel to CEO, the JAG’s role is not to create obstacles, but to find legal ways to achieve his client’s goals—even when those goals are to blow things up and kill people” ~Keeva, 1991:59!. Lt. Col. Tony Montgomery, the JAG who approved the bombing of the Belgrade television studios, said recently that “judges don’t lay down the law. We take guidance from our government on how much of the consequences they are willing to accept” ~The Guardian, 2001!.¶ Military necessity is undeterred. In a permissive legal atmosphere, hi-tech states can meet their goals and remain within the letter of the law. As noted, humanitarian law is firmest in areas of marginal military utility. When opera- tional demands intrude, however, even fundamental rules begin to erode. The Defense Department’s final report to Congress on the Gulf War ~DOD, 1992! found nothing in the principle of noncombatant immunity to curb necessity. Heartened by the knowledge that civilian discrimination is “one of the least codified portions” of the law of war ~p. 611!, the authors argued that “to the degree possible and consistent with allowable risk to aircraft and aircrews,” muni- tions and delivery systems were chosen to reduce collateral damage ~p. 612!. “An attacker must exercise reasonable precautions to minimize incidental or collat- eral injury to the civilian population or damage to civilian objects, consistent with mission accomplishments and allowable risk to the attacking forces” ~p. 615!. The report notes that planners targeted “specific military objects in populated areas which the law of war permits” and acknowledges the “commingling” of civilian and military objects, yet the authors maintain that “at no time were civilian areas as such attacked” ~p. 613!. The report carefully constructed a precedent for future conflicts in which human shields might be deployed, noting “the presence of civilians will not render a target immune from attack” ~p. 615!. The report insisted ~pp. 606–607! that Protocol I as well as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons “were not legally applicable” to the Gulf War because Iraq as well as some Coalition members had not ratified them. More to the point that law follows practice, the report claimed that certain provisions of Protocol I “are not a codification of the customary practice of nations,” and thus “ignore the realities of war” ~p. 616!.¶ Nor can there be any doubt that a more elaborate legal regime has kept pace with evolving strategy and technology. Michael Ignatieff details in Virtual War ~2000! how targets were “developed” in 72-hour cycles that involved collecting and reviewing aerial reconnaissance, gauging military necessity, and coding antici- pated collateral damage down to the directional spray of bomb debris. A judge advocate then vetted each target in light of the Geneva Conventions and calcu- lated whether or not the overall advantage to be gained outweighed any expected civilian spillover. Ignatieff argues ~2000:198–199! that this elaborate symbiosis of law and technology has given birth to a “veritable casuistry of war.” Legal fine print, hand-in-hand with new technology, replaced deeper deliberation about the use of violence in war. The law provided “harried decision-makers with a critical guarantee of legal coverage, turning complex issues of morality into technical issues of legality.” Astonishingly fine discrimination also meant that unintentional civilian casualties were assumed to have been unintentional, not foreseen tragedies to be justified under the rule of double effect or the fog of war. The crowning irony is that NATO went to such lengths to justify its targets and limit collateral damage, even as it assured long-term civilian harm by destroy- ing the country’s infrastructure.¶ Perhaps the most powerful justification was provided by law itself. War is often dressed up in patriotic abstractions—Periclean oratory, jingoistic newsreels, or heroic memorials. Bellum Americanum is cloaked in the stylized language of law. The DOD report is padded with references to treaty law, some of it obscure, that was “applicable” to the Gulf War, as if a surfeit of legal citation would convince skeptics of the propriety of the war. Instances of humane restraint invariably were presented as the rule of law in action. Thus the Allies did not gas Iraqi troops, torture POWs, or commit acts of perfidy. Most striking is the use of legal language to justify the erosion of noncombatant immunity. Hewing to the legal- isms of double effect, the Allies never intentionally targeted civilians as such. As noted, by codifying double effect the law artificially bifurcates intentions. Har- vard theologian Bryan Hehir ~1996:7! marveled at the Coalition’s legalistic word- play, noting that the “briefers out of Riyadh sounded like Jesuits as they sought to defend the policy from any charge of attempting to directly attack civilians.”¶ The Pentagon’s legal narrative is certainly detached from the carnage on the ground, but it also oversimplifies and even actively obscures the moral choices involved in aerial bombing. Lawyers and tacticians made very deliberate decisions about aircraft, flight altitudes, time of day, ordnance dropped, confidence in intelligence, and so forth. By expanding military necessity to encompass an extremely prudential reading of “force protection,” these choices were calculated to protect pilots and planes at the expense of civilians on the ground, departing from the just war tradition that combatants assume greater risks than civilians. While it is tempting to blame collateral damage on the fog of war, much of that uncertainty has been lifted by technology and precision law. Similarly, in Iraq and in Yugoslavia the focus was on “degrading” military capabilities, yet a loose view of dual use spelled the destruction of what were essentially social, economic, and political targets. Coalition and NATO officials were quick to apologize for accidental civilian casualties, but in hi-tech war most noncombatant suffering is by design.¶ Does the law of war reduce death and destruction? International law certainly has helped to delegitimize, and in rare cases effectively criminalize, direct attacks on civilians. But in general humanitarian law has mirrored wartime practice. On the ad bellum side, the erosion of right authority and just cause has eased the path toward war. Today, foreign offices rarely even bother with formal declara- tions of war. Under the United Nations system it is the responsibility of the Security Council to denounce illegal war, but for a number of reasons its mem- bers have been extremely reluctant to brand states as aggressors. If the law were less accommodating, greater effort might be devoted to diplomacy and war might be averted. On the in bello side the ban on direct civilian strikes remains intact, but double effect and military demands have been contrived to justify unnecessary civilian deaths. Dual use law has been stretched to sanction new forms of violence against civilians. Though not as spectacular as the obliteration bombing to which it so often is favorably compared, infrastructural war is far deadlier than the rhetoric of a “clean and legal” conflict suggests. It is true that rough estimates of the ratio of bomb tonnage to civilian deaths in air attacks show remarkable reductions in immediate collateral damage. There were some 40.83 deaths per ton in the bombing of Guernica in 1937 and 50.33 deaths per ton in the bombing of Tokyo in 1945. In the Kosovo campaign, by contrast, there were between .077 and .084 deaths per ton. In Iraq there were a mere .034 ~Thomas, 2001:169!. According to the classical definition of collateral damage, civilian protection has improved dramatically, but if one takes into account the staggering long-term effects of the war in Iraq, for example, aerial bombing looks anything but humane.¶ For aerial bombers themselves modern war does live up to its clean and legal image. While war and intervention have few steadfast constituents, the myth of immaculate warfare has eased fears that intervening soldiers may come to harm, which polls in the U.S., at least, rank as being of great public concern, and even greater military concern. A new survey of U.S. civilian and military attitudes found that soldiers were two to four times more casualty-averse than civilians thought they should be ~Feaver and Kohn, 2001!. By removing what is perhaps the greatest restraint on the use of force—the possibility of soldiers dying—law and technology have given rise to the novel moral hazards of a “postmodern, risk-free, painless war” ~Woollacott, 1999!. “We’ve come to expect the immacu- late,” notes Martin Cook, who teaches ethics at the U.S. Army War College in Carlisle, PA. “Precision-guided munitions make it very much easier to go to war than it ever has been historically.” Albert Pierce, director of the Center for the Study of Professional Military Ethics at the U.S. Naval Academy argues, “standoff precision weapons give you the option to lower costs and risks . . . but you might be tempted to do things that you might otherwise not do” ~Belsie, 1999!.¶ Conclusion¶ The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast.¶ This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhu- manity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9¶ No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of human- itarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

### \*\*Psychological Legitimacy/State Control

#### Restrictions cause net-more violence – laws of war legitimize longer-term actions and fragment dissent

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(Thomas, *International Studies Quarterly* 46, The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence)

The argument advanced here is that the law of war has flourished at the cost of increased artificiality and elasticity. Law has successfully shaped norms and practices in the areas of warfare furthest from hi-tech tactics. Strides have been made, for example, in the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, and the 1997 Convention on the Prohibition of Anti-Personnel Mines. For hi-tech states, these are relatively low-cost laws. But when modern military necessity calls, the law of war has legitimized violence, not restrained it. New military technology invariably has been matched by technical virtuosity in the law. New legal interpretations, diminished ad bellum restraints, and an expansive view of military necessity are coalescing in a regime of legal warfare that licenses hi-tech states to launch wars as long as their conduct is deemed just. The new law of war burnishes hi-tech campaigns and boosts public relations, even as it undercuts customary limits on the use of force and erodes distinctions between soldiers and civilians. Modern warfare has dramatically reduced the number of direct civilian deaths, yet the law sanctions infrastructural campaigns that harm long-term public health and human rights

### Shift

#### Aff makes war more frequent and worse

#### Tech shift – Legal restrictions on offensive military operations just cause a shift to technology-based warfare where President knows the law won’t be enforced

Judah A. Druck – 2012, DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE, B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013, Cornell Law Review [Vol. 98:209, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf

Despite the limited nature of the U.S. intervention, questions concerning the legality of the President’s actions quickly arose.6 Under the 1973 War Powers Resolution (WPR),7 which was enacted in the wake of protests during the Vietnam War, the President is required to cease any use of military forces in “hostilities” within sixty days of the conflict’s beginning unless he receives congressional authorization to the contrary.8 Having acted without any support from Congress in the first sixty days, the President had seemingly presented a clear example of a WPR violation. Yet President Obama and State Department legal adviser Harold Koh rejected this view by arguing that the use of force in Libya had not involved the type of “hostilities” covered by the WPR.9 Emphasizing the absence of U.S. casualties and lack of exposure to “exchanges of fire with hostile forces,” the President stood firmly behind his decision to intervene in Libya without consulting Congress.10 Legislators, pundits, and academics alike broadly criticized this legal analysis.11 Yet aside from these particularized complaints, the President ultimately faced no discernible repercussions (judicial, legislative, or social challenges) for his actions.12 From a historical perspective, the absence of substantial backlash is unsurprising: since its inception, the WPR has generally failed to prevent presidents from using military action in an arguably illegal manner.13 In those situations, courts,14 legislators,15 and social movements16 have failed to challenge this sort of presidential action, setting the stage for President Obama’s similar neglect of the WPR. But perhaps we can examine the apathetic treatment of President Obama’s actions in Libya in a different light, one that focuses on the changing nature and conception of warfare itself. Contrary to larger scale conflicts like the Vietnam War, where public (and political) outrage set the stage for Congress’s assertion of war-making power through the WPR,17 the recent U.S. intervention did not involve a draft, nor a change in domestic industry (requiring, for example, civil- ians to ration food), and, perhaps most importantly, did not result in any American casualties.18 Consequently, most analyses of the Libyan campaign focused on its monetary costs and other economic harms to American taxpayers.19 This type of input seems too nebulous to cause any major controversy, especially when contrasted with the concurrent costs associated with the wars in Iraq and Afghanistan.20 In a sense, less is at stake when drones, not human lives, are on the front lines, limiting the potential motivation of a legislator, judge, or antiwar activist to check presidential action.21 As a result, the level of nonexecutive involvement in foreign military affairs has decreased. The implications are unsettling: by ameliorating many of the concerns often associated with large-scale wars, technology-driven warfare has effectively removed the public’s social and political limitations that previously discouraged a President from using potentially illegal military force. As President Obama’s conduct illustrates, removing these barriers has opened the door to an unfettered use of unilateral executive action in the face of domestic law.22 Consequently, as war becomes more and more attenuated from the American psyche, a President’s power to use unilateral force without repercussions will likely continue to grow. Should the public care that the WPR no longer seems to present a barrier to presidential action? Or, put another way, if the WPR stands for the proposition that the President should not use force unilaterally,23 does that purpose remain relevant given the increased use of technology in modern warfare? This Note answers that question in the affirmative by illustrating the issues created by a toothless WPR in the face of modern advances in military technology and tactics. While the limited nature of technology-driven warfare might ostensibly remove the traditional costs associated with war, many of the concerns held by those who drafted the WPR nevertheless remain.

#### Congressional hawks –

#### Requiring Congressional authorizations empowers the hawks

GARANCE FRANKE-RUTA – 9/3/13, The Atlantic, senior editor covering national politics at The Atlantic, How a Congressional Authorization Could Escalate U.S. Intervention in Syria, The Atlantic, <http://www.theatlantic.com/politics/archive/2013/09/how-a-congressional-authorization-could-escalate-us-intervention-in-syria/279248/>

Now, if Obama gets congressional approval, he'll be getting it in what is likely to remain a fairly open-ended way, as part of a strategy with bigger aims, and owe his legislative success in part to the support of the most hawkish members of Congress. Is there any doubt they will continue to pressure him to act under the authorization they will have granted him, and that his White House requested? And that the forces gunning for intervention, once mobilized, will have a momentum of their own?

#### Legitimization – WPR proves Congress will authorize when the President asks – rubber stamps interventions

Michael P. Scharf\* and Brittany Pizor – Fall 2012, Professor of Law and Associate Dean for Global Legal Studies & ymposium Editor, Case Western Journal of International Law, J.D. , Presidential Powers and Foreign Affairs: Foreword, 45 Case W. Res. J. Int'l L. 1

The issue moves on to a group of five articles examining the War Powers Resolution, which was enacted forty years ago but continues to be as controversial as ever today. Laurie R. Blank, Professor at Emory University School of Law, begins in Presidential Foreign Policy: An Opportunity for International Law Education, n11 by describing how the War Powers Resolution has had the positive effect of impelling the president to communicate military policy rationales and justifications to the public. Next, Robert F. Turner, Associate Director of the Center for National Security Law at the University of Virginia, argues in The War Powers Resolution at 40: Still an Unconstitutional, Unnecessary, and Unwise Fraud that Contributed Directly to the 9/11 Attacks, n12 that the War Powers Resolution has done tremendous harm to U.S. national security and the cause of world peace--including playing a key role in encouraging Osama bin Laden to launch the 9/11 attacks. Gregory Noone, Director of the National Security Law and Intelligence Program at Fairmont State University, in turn argues in The War Powers Resolution and Public Opinion n13 that the War Powers Resolution has become a "political cover" for Congress. Professor Noone explains how Congress usually acquiesces to the president's swift and small scale use of force and only rarely threatens legislative action when the use of force is prolonged and unpopular. The next article, The War Powers Resolution--A Dim and Fading Legacy n14 by John Crook, Vice President of the American Society of International Law and former [\*5] Assistant Legal Adviser at the U.S. Department of State, argues that the War Powers Resolution has actually had very little impact over the past forty years and will likely have even less impact in the future. This section concludes with Michael Newton's article Inadvertent Implications of the War Powers Resolution. n15 Newton, a Professor at Vanderbilt University School of Law and former Deputy to the Ambassador-at-Large for War Crimes Issues, writes that the War Powers Resolution has perversely encouraged presidents to embrace military strategies designed to avoid application of the War Powers Resolution rather than to best fulfill strategic objectives.

## Alt

### Overview

#### Militaristic war may be a central value of modern Western culture, but it can be changed through analysis – multiple empirical examples prove

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 23-24)

The slow but persistent rise in awareness of racial, ethnic, gender, sexual- orientation, and class oppression in our time and the beginning efforts of liberation from within oppressed groups offer hope that even the most deeply held and least explicitly challenged predispositions of culture might be examined. Such examinations can lead to changes in the lives of the oppressed. Perhaps even those oppressed by warism will one day free themselves from accepting war as an inevitable condition of nature. Two hundred years ago slavery was a common and well- established social institution in the United States. It had been an ordinary feature of many societies dating to ancient and perhaps prehistoric times. Slavery was taken for granted as a natural condition for beings thought to be inferior to members of the dominant group. And slavery was considered an essential feature of our nation’s economy. Within the past two centuries, attitudes toward slavery have changed dramatically. With these fundamental shifts in normative lenses came fundamental shifts in the practice and legality of slavery. These changes have been as difficult as they have been dramatic, for former slaves, for former slave- holders, and for culture at large. While deep racial prejudices persist to this day, slavery is no longer tolerated in modern societies. Slavery- like conditions of severe economic exploitation of labor have become embarrassments to dominant groups in part because slavery is universally condemned. The point is that the most central values of cultures— thought to be essential to the very survival of the society and allegedly grounded in the natural conditions of creation—can change in fundamental ways in relatively short periods of time with profound implications for individuals and societies. John Dewey beautifully links this point to the consideration of warism: “War is as much a social pattern [for us] as was the domestic slavery which the ancients thought to be immutable fact.”9 The civil rights movement has helped us see that human worth is not determined by a racial hierarchy. Feminism has helped us realize again that dominant attitudes about people are more likely values we choose rather than innate and determined features of human nature. It is historically true that men have been more actively violent and have received more training and encouragement in violence than have women.10 Dominant attitudes of culture have explained this by reference to what is “natural” for males and “natural” for females. By questioning the traditional role models for men and women, all of us be- come more free to choose and create the selves we are to be; we need not be defined by hidden presumptions of gender roles. Parallel to racial and gender liberation movements, pacifism questions taking warism for granted. Pacifists seek an examination of our unquestioned assumption of warism to expose it as racism and sexism have been examined and exposed. Just as opponents of racism and sex- ism consider the oppression of nonwhites and women, respectively, to be wrong, and thus to require fundamental changes in society, so opponents of warism— pacifists of various sorts— consider war to be wrong, and thus to require fundamental changes in society.

### \*\*AT: Not Practical

#### Multiple historical examples prove nonviolence is practical and state-based non-violence can be more effective than disorganized resistance

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 94-96)

Turning to more genuine objections to pacifism, the vast majority ¶ of standard criticisms are variations of “Be realistic.” These tend to be ¶ expressed with remarks such as, “Pacifism sounds good but it just won’t ¶ work,” or “I agree in theory but not in practice.” Since practical objections can only be resolved by reference to empirical evidence, it is at ¶ this point that the long history of nonviolent direct action needs to be ¶ known. People tend to think pacifist action will not work because they ¶ are largely ignorant of where and when it has worked. In fact, nonviolent direct action has been an effective and widespread means of social ¶ change, defense of rights, resistance against invasion, improvement of ¶ economic conditions, and overthrow of dictators. While a thorough history of nonviolent direct action cannot be included here, brief sketches ¶ of selected successful pacifist direct actions are helpful.1¶ Examples of effective use of nonviolent direct action can be documented at least as far back as fifth century B.C.E. Rome. Evidence is ¶ scattered but “nonviolent action certainly occurred between Roman ¶ times and the late eighteenth century, when the case material be-¶ comes rich.”2 While many effective nonviolent actions are familiar, ¶ many more are neglected in our school history texts, or their significance is overshadowed by detailed accounts of battles, tactics, and acts ¶ of military heroes. Some effective nonviolent actions are recounted ¶ with little recognition that they fostered major social change without ¶ resort to violence. Instances of effective use of nonviolent direct action ¶ from early American history include organized colonists challenging ¶ British rule by economic resistance, abolitionist struggles against ¶ slavery through boycott of slave- labor- produced goods and support of runaway slaves via the Underground Railroad, the struggle for women’s suffrage through protest, civil disobedience, and tax resistance, as ¶ well as numerous strikes, boycotts, slow- downs, and protests characterizing the defense of workers’ rights in the labor movement. Similar ¶ examples can be drawn from the histories of many other nations.¶ To a large extent, nonviolent means of struggle have replaced physical attacks, riots, and killings as means of social and economic reform, ¶ but we now take these nonviolent methods for granted as appropriate ¶ means for redress of economic and social grievances. Unfortunately, ¶ we rarely recognize the role of nonviolent activists in the transformation of culture from violent to nonviolent means in achieving social and ¶ economic justice. When faced with the objection “it won’t work,” the ¶ pacifist response must be, simply, that nonviolent action does work and ¶ has a history to document the claim.¶ Serious critics of pacifism press further, objecting that while a few ¶ instances of effective use of nonviolent direct action have occurred, ¶ they are exceptional cases. To respond to this, pacifists need only underscore the innumerable cooperative acts undertaken routinely every ¶ day by the vast majority of people within any functional society. When ¶ this point is granted, the objection turns to require examples not from ¶ domestic conflict over economic or social grievances but instances in ¶ which nonviolent struggle is “a major or predominant means of defense ¶ against foreign invaders or internal usurpers.”3 Here again history ¶ provides examples of successful nonviolent actions. They include:¶ German strikes and political noncooperation to the 1920 Kapp ¶ Putsch against the Weimar Republic; German government- ¶ sponsored noncooperation in the Ruhr in 1923 to the French ¶ and Belgian occupation; major aspects of the Dutch anti-Nazi ¶ resistance, including several large strikes, 1940– 45; major aspects of the Danish resistance to the German occupation, including the 1944 Copenhagen general strike, 1940– 45; major ¶ parts of the Norwegian resistance to the Quisling regime and ¶ the occupation, 1940– 45; and the Czechoslovak resistance to the Soviet invasion and occupation, 1968– 69.4¶ It must be kept in mind that in these cases nonviolent actions were ¶ undertaken with success yet with little or no preparation, training, or planning. Of course the Czechoslovak resistance ultimately ¶ failed, “but it held off full Soviet control for eight months . . . which ¶ would have been utterly impossible by military means.”5 We can ¶ only speculate how much more successful nonviolent defense might be were nations to prepare for it with commitments of resources ¶ and energy at levels comparable to current investments in military ¶ defense.

## Framework

### 2NC Block

#### Our mental relationship to war and peace is a controlling factor in the policy research that we do and the choices we make about militarism – we have a responsibility to be conscious of the way we represent war in our scholarship – their decision to represent war as a necessary but regulate-able evil solidifies militarism

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[Iredell Jenkins, “The Conditions of Peace”, The Monist, Vol. 57, No. 4, Philosophy of War (OCTOBER, 1973), pp. 507-526, http://www.jstor.org/stable/27902329] Gender Edited

I shall argue in this paper that our thinking about the question of war and peace is vitiated at its source by a series of mistaken assumptions and intentions. These misconceptions pass as sound coin because they have the air of truisms: they appear to direct our inquiries along lines that are sure to be successful and are anyway the only ones available. At the same time, these errors are so basic that they distort both theory and practice from the start: they are red herrings, putting us on a false scent from which we never free ourselves because we cannot get close enough to the quarry to recognize our mistake. It is my purpose to expose these errors and point the way to their correction. Three basic mistakes have misled our thinking about war and peace. We have employed the wrong categories. We have studied the wrong data. And we have pursued the wrong goal. These errors are intimately related, with each in turn entailing the next. The categories we think in focus our attention too narrowly. The data we pore over yield distorted conclusions. The goals we are thus led to pursue are mirages that grow fainter the closer we approach them. It will be necessary to discuss these errors serially, but it must be remembered that they are in reality tightly forged links in a closed chain. 1. The controlling factor in all human undertakings is the conceptual apparatus that men [people] employ-the terms in which they think. These modes of thought largely determine the data we examine, the phenomena we are interested in, the questions we ask, and the purposes we pursue. In more homely language, this apparatus defines where we look, what we look for, and what we hope to do. And it is here, at their very first step, that our dealings with the problem of war and peace go astray. Our mistake is simple but critical: we think in terms that focus our attention on only one side of the issue, and that the more superficial and derivative side. What we do, in brief, is to treat war as an independent variable, which is to be understood in isolation from any larger context and dealt with strictly on its own terms. We appear to act on the assumption that wars are ultimate and ineradicable features of reality, so there are only two things we can do about them: delay their occurrence and make sure we win them when they occur. Seen in the light of reason, this procedure is paradoxical. The real and final object of our concern is peace. We want to establish amicable relations among people, and create a community of feeling and interests. Yet the overwhelming proportion of our thinking, talking, and acting is concerned with war. It is war, in fact and in threat, that constantly preoccupies us. So the universe of discourse in which we treat the problem of war and peace has a vocabulary that is derived entirely from only one of these elements: war. The concepts that dominate our thinking are 'nation states', 'sovereignty', 'foreign powers', 'treaties', 'alliances', 'the balance of power', 'nuclear deterrents', and other such. War so fascinates us that we are incapable of viewing it in perspective and putting it in context. So we fail to see that war is only one element in a complex set of human relationships, which can be neutralized by other and very different elements. Instead, we persist in thinking that the threat of war can be averted, and war itself 'won', only in the terms that it itself poses: namely, the appeal to force. Peace may be the object of our prayers, but war is the object of our efforts. I remarked above that there is something extremely paradoxical about this situation. But there is nothing unusual about it: this is not an isolated case, but an instance of a general type of behavior. In one context after another, we find men neglecting to pursue the good they seek and thinking only of averting the evil they fear. Many dichotomies of this sort come easily to mind: peace-war, health-illness, justice-injustice, equality-discrimination, rehabilitation-punishment. In every instance, it is the second item on which we lavish our efforts. It simply seems to be the case that in all of the contexts of life men [people] tend to take sound and satisfactory situations for granted, and to be concerned only with those that are unpleasant, threatening, or harmful. So instead of trying to preserve peace, we think only of preventing wars-or winning them. In short, we are in the odd position of not seeking the ends that we desire, but merely trying to avert or cure the outcomes we fear. Indeed, we do not even think much about these goods, and we usually define them as the absence of their opposites. So though our approach to the problem of war and peace is paradoxical, it is not anomolous. 2. Our initial mistake in dealing with the issues of war and peace is to employ the wrong categories: our thinking is done exclusively in terms of 'war' and concepts associated with it. The immediate result of this mistake is to focus our attention on a narrow and inadequate range of data. The common meaning of 'war' is a conflict between nation states, waged by armies using every weapon of force available, in which each party seeks to defeat the other (the "enemy") and reduce it to a condition of total subservience. As Clausewitz put it in his classic treatise, "War therefore is an act of violence intended to compel our opponent to fulfill our will".1 Since we think in terms of war, and this is what war means, these are the data we turn to when we seek enlightenment on the issues of war and peace: we look only at the relations between sovereign states, and then only when these states are in a condition of actual or threatened violent conflict. We thus find ourselves in the absurd position of trying to understand peace by studying war. This is like trying to understand motion by studying rest, as the ancients did, or trying to derive the character of man from the nature of God, as the mediaevalists did. We deride these latter efforts as exercises in futility. But we employ an exactly analogous procedure in our approach to peace, and we are perpetually surprised and frustrated when it does not succeed. What we are doing, in sum, is using the pathological case as a paradigm for studying the sound case. So we become expert only in the pathology of international relations. Our fascination with the phenomena of war leads us to certain conclusions that become as unshakeable as they are deceptive. We regard the sovereign state as at once a brute fact and an impenetrable mystery. We assume that there must be irreconcilable conflicts of interest among such states. Since these conflicts can be neither resolved nor arbitrated, they must eventually lead to trial by force. Given the facts that we study, these conclusions follow naturally.

#### Structural violence is the proximate cause of all war- creates priming that psychologically structures escalation

\*\*Answers no root cause- because there is no root cause we must be attentative to structural inequality of all kinds because it primes people for broader violence- our impact is about the *scale* of violence and the *disproportionate* *relationship* between that scale and warfare, not that one form of social exclusion comes first

Scheper-Hughes and Bourgois ‘4

(Prof of Anthropology @ Cal-Berkely; Prof of Anthropology @ UPenn)

(Nancy and Philippe, Introduction: Making Sense of Violence, in Violence in War and Peace, pg. 19-22)

This large and at first sight “messy” Part VII is central to this anthology’s thesis. It encompasses everything from the routinized, bureaucratized, and utterly banal violence of children dying of hunger and maternal despair in Northeast Brazil (Scheper-Hughes, Chapter 33) to elderly African Americans dying of heat stroke in Mayor Daly’s version of US apartheid in Chicago’s South Side (Klinenberg, Chapter 38) to the racialized class hatred expressed by British Victorians in their olfactory disgust of the “smelly” working classes (Orwell, Chapter 36). In these readings violence is located in the symbolic and social structures that overdetermine and allow the criminalized drug addictions, interpersonal bloodshed, and racially patterned incarcerations that characterize the US “inner city” to be normalized (Bourgois, Chapter 37 and Wacquant, Chapter 39). Violence also takes the form of class, racial, political self-hatred and adolescent self-destruction (Quesada, Chapter 35), as well as of useless (i.e. preventable), rawly embodied physical suffering, and death (Farmer, Chapter 34). Absolutely central to our approach is a blurring of categories and distinctions between wartime and peacetime violence. Close attention to the “little” violences produced in the structures, habituses, and mentalites of everyday life shifts our attention to pathologies of class, race, and gender inequalities. More important, it interrupts the voyeuristic tendencies of “violence studies” that risk publicly humiliating the powerless who are often forced into complicity with social and individual pathologies of power because suffering is often a solvent of human integrity and dignity. Thus, in this anthology we are positing a violence continuum comprised of a multitude of “small wars and invisible genocides” (see also Scheper- Hughes 1996; 1997; 2000b) conducted in the normative social spaces of public schools, clinics, emergency rooms, hospital wards, nursing homes, courtrooms, public registry offices, prisons, detention centers, and public morgues. The violence continuum also refers to the ease with which humans are capable of reducing the socially vulnerable into expendable nonpersons and assuming the license - even the duty - to kill, maim, or soul-murder. We realize that in referring to a violence and a genocide continuum we are flying in the face of a tradition of genocide studies that argues for the absolute uniqueness of the Jewish Holocaust and for vigilance with respect to restricted purist use of the term genocide itself (see Kuper 1985; Chaulk 1999; Fein 1990; Chorbajian 1999). But we hold an opposing and alternative view that, to the contrary, it is absolutely necessary to make just such existential leaps in purposefully linking violent acts in normal times to those of abnormal times. Hence the title of our volume: Violence in War and in Peace. If (as we concede) there is a moral risk in overextending the concept of “genocide” into spaces and corners of everyday life where we might not ordinarily think to find it (and there is), an even greater risk lies in failing to sensitize ourselves, in misrecognizing protogenocidal practices and sentiments daily enacted as normative behavior by “ordinary” good-enough citizens. Peacetime crimes, such as prison construction sold as economic development to impoverished communities in the mountains and deserts of California, or the evolution of the criminal industrial complex into the latest peculiar institution for managing race relations in the United States (Waquant, Chapter 39), constitute the “small wars and invisible genocides” to which we refer. This applies to African American and Latino youth mortality statistics in Oakland, California, Baltimore, Washington DC, and New York City. These are “invisible” genocides not because they are secreted away or hidden from view, but quite the opposite. As Wittgenstein observed, the things that are hardest to perceive are those which are right before our eyes and therefore taken for granted. In this regard, Bourdieu’s partial and unfinished theory of violence (see Chapters 32 and 42) as well as his concept of misrecognition is crucial to our task. By including the normative everyday forms of violence hidden in the minutiae of “normal” social practices - in the architecture of homes, in gender relations, in communal work, in the exchange of gifts, and so forth - Bourdieu forces us to reconsider the broader meanings and status of violence, especially the links between the violence of everyday life and explicit political terror and state repression, Similarly, Basaglia’s notion of “peacetime crimes” - crimini di pace - imagines a direct relationship between wartime and peacetime violence. Peacetime crimes suggests the possibility that war crimes are merely ordinary, everyday crimes of public consent applied systematically and dramatically in the extreme context of war. Consider the parallel uses of rape during peacetime and wartime, or the family resemblances between the legalized violence of US immigration and naturalization border raids on “illegal aliens” versus the US government- engineered genocide in 1938, known as the Cherokee “Trail of Tears.” Peacetime crimes suggests that everyday forms of state violence make a certain kind of domestic peace possible. Internal “stability” is purchased with the currency of peacetime crimes, many of which take the form of professionally applied “strangle-holds.” Everyday forms of state violence during peacetime make a certain kind of domestic “peace” possible. It is an easy-to-identify peacetime crime that is usually maintained as a public secret by the government and by a scared or apathetic populace. Most subtly, but no less politically or structurally, the phenomenal growth in the United States of a new military, postindustrial prison industrial complex has taken place in the absence of broad-based opposition, let alone collective acts of civil disobedience. The public consensus is based primarily on a new mobilization of an old fear of the mob, the mugger, the rapist, the Black man, the undeserving poor. How many public executions of mentally deficient prisoners in the United States are needed to make life feel more secure for the affluent? What can it possibly mean when incarceration becomes the “normative” socializing experience for ethnic minority youth in a society, i.e., over 33 percent of young African American men (Prison Watch 2002). In the end it is essential that we recognize the existence of a genocidal capacity among otherwise good-enough humans and that we need to exercise a defensive hypervigilance to the less dramatic, permitted, and even rewarded everyday acts of violence that render participation in genocidal acts and policies possible (under adverse political or economic conditions), perhaps more easily than we would like to recognize. Under the violence continuum we include, therefore, all expressions of radical social exclusion, dehumanization, depersonal- ization, pseudospeciation, and reification which normalize atrocious behavior and violence toward others. A constant self-mobilization for alarm, a state of constant hyperarousal is, perhaps, a reasonable response to Benjamin’s view of late modern history as a chronic “state of emergency” (Taussig, Chapter 31). We are trying to recover here the classic anagogic thinking that enabled Erving Goffman, Jules Henry, C. Wright Mills, and Franco Basaglia among other mid-twentieth-century radically critical thinkers, to perceive the symbolic and structural relations, i.e., between inmates and patients, between concentration camps, prisons, mental hospitals, nursing homes, and other “total institutions.” Making that decisive move to recognize the continuum of violence allows us to see the capacity and the willingness - if not enthusiasm - of ordinary people, the practical technicians of the social consensus, to enforce genocidal-like crimes against categories of rubbish people. There is no primary impulse out of which mass violence and genocide are born, it is ingrained in the common sense of everyday social life. The mad, the differently abled, the mentally vulnerable have often fallen into this category of the unworthy living, as have the very old and infirm, the sick-poor, and, of course, the despised racial, religious, sexual, and ethnic groups of the moment. Erik Erikson referred to “pseudo- speciation” as the human tendency to classify some individuals or social groups as less than fully human - a prerequisite to genocide and one that is carefully honed during the unremark- able peacetimes that precede the sudden, “seemingly unintelligible” outbreaks of mass violence. Collective denial and misrecognition are prerequisites for mass violence and genocide. But so are formal bureaucratic structures and professional roles. The practical technicians of everyday violence in the backlands of Northeast Brazil (Scheper-Hughes, Chapter 33), for example, include the clinic doctors who prescribe powerful tranquilizers to fretful and frightfully hungry babies, the Catholic priests who celebrate the death of “angel-babies,” and the municipal bureaucrats who dispense free baby coffins but no food to hungry families. Everyday violence encompasses the implicit, legitimate, and routinized forms of violence inherent in particular social, economic, and political formations. It is close to what Bourdieu (1977, 1996) means by “symbolic violence,” the violence that is often “nus-recognized” for something else, usually something good. Everyday violence is similar to what Taussig (1989) calls “terror as usual.” All these terms are meant to reveal a public secret - the hidden links between violence in war and violence in peace, and between war crimes and “peace-time crimes.” Bourdieu (1977) finds domination and violence in the least likely places - in courtship and marriage, in the exchange of gifts, in systems of classification, in style, art, and culinary taste- the various uses of culture. Violence, Bourdieu insists, is everywhere in social practice. It is misrecognized because its very everydayness and its familiarity render it invisible. Lacan identifies “rneconnaissance” as the prerequisite of the social. The exploitation of bachelor sons, robbing them of autonomy, independence, and progeny, within the structures of family farming in the European countryside that Bourdieu escaped is a case in point (Bourdieu, Chapter 42; see also Scheper-Hughes, 2000b; Favret-Saada, 1989). Following Gramsci, Foucault, Sartre, Arendt, and other modern theorists of power-vio- lence, Bourdieu treats direct aggression and physical violence as a crude, uneconomical mode of domination; it is less efficient and, according to Arendt (1969), it is certainly less legitimate. While power and symbolic domination are not to be equated with violence - and Arendt argues persuasively that violence is to be understood as a failure of power - violence, as we are presenting it here, is more than simply the expression of illegitimate physical force against a person or group of persons. Rather, we need to understand violence as encompassing all forms of “controlling processes” (Nader 1997b) that assault basic human freedoms and individual or collective survival. Our task is to recognize these gray zones of violence which are, by definition, not obvious. Once again, the point of bringing into the discourses on genocide everyday, normative experiences of reification, depersonalization, institutional confinement, and acceptable death is to help answer the question: What makes mass violence and genocide possible? In this volume we are suggesting that mass violence is part of a continuum, and that it is socially incremental and often experienced by perpetrators, collaborators, bystanders - and even by victims themselves - as expected, routine, even justified. The preparations for mass killing can be found in social sentiments and institutions from the family, to schools, churches, hospitals, and the military. They harbor the early “warning signs” (Charney 1991), the “priming” (as Hinton, ed., 2002 calls it), or the “genocidal continuum” (as we call it) that push social consensus toward devaluing certain forms of human life and lifeways from the refusal of social support and humane care to vulnerable “social parasites” (the nursing home elderly, “welfare queens,” undocumented immigrants, drug addicts) to the militarization of everyday life (super-maximum-security prisons, capital punishment; the technologies of heightened personal security, including the house gun and gated communities; and reversed feelings of victimization).

# 1NR

### case

**National security scandals decked soft power and our ability to be modeled --- that’s Migranyan --- there’s massive international backlash to spying and it stops us from influencing other countries --- I’m going to finish this card**

the same influence that made the U.S. model very attractive to the rest of the world. This former lustre is now diminished. The blatant everyday intrusions into the private lives of Americans, and violations of individual rights and liberties by runaway, unaccountable U.S. government agencies, have deprived the United States of its authority to dictate how others must live and what others must do. Washington can no longer lecture others when its very foundational institutions and values are being discredited—or at a minimum, when all is not well “in the state of Denmark.” Perhaps precisely because not all is well, many American politicians seem unable to adequately address the current situation. Instead of asking what isn’t working in the government and how to ensure accountability and transparency in their institutions, they try, in their annoyance, to blame the messenger—as they are doing in Snowden’s case. Some Senators hurried to blame Russia and Ecuador for anti-American behavior, and threatened to punish them should they offer asylum to Snowden. These threats could only cause confusion in sober minds, as every sovereign country retains the right to issue or deny asylum to whomever it pleases. In addition, the United States itself has a tradition of always offering political asylum to deserters of the secret services of other countries, especially in the case of the former Soviet Union and other ex-socialist countries. In those situations, the United States never gave any consideration to how those other countries might react—it considered the deserters sources of valuable information. As long as deserters have not had a criminal and murderous past, they can receive political asylum in any country that considers itself sovereign and can stand up to any pressure and blackmail. Meanwhile, the hysteria of some politicians, if the State Department or other institutions of the executive branch join it, can only accelerate the process of Snowden’s asylum. For any country he might ask will only be more willing to demonstrate its own sovereignty and dignity by standing up to a bully that tries to dictate conditions to it. In our particular case, political pressure on Russia and President Putin could turn out to be utterly counterproductive. I believe that Washington has enough levelheaded people to understand that fact, and correctly advise the White House. The administration will need sound advice, as many people in Congress fail to understand the consequences of their calls for punishment of sovereign countries or foreign political leaders that don’t dance to Washington’s tune. Judging by the latest exchange between Moscow and Washington, it appears that the executive branches of both countries will find adequate solutions to the Snowden situation without attacks on each other’s dignity and self-esteem. Russia and the United States are both Security Council members, and much hinges on their decisions, including a slew of common problems that make cooperation necessary. Yet the recent series of scandals has caused irreparable damage to the image and soft power of the United States. I do not know how soon this damage can be repaired. But gone are the days when Orwell was seen as a relic of the Cold War, as the all-powerful Leviathan of the security services has run away from all accountability to state and society. Today the world is looking at America—and its model for governance—with a more critical eye.

**Aff causes a fight between the President and Congress before every deployment – destroys US diplomacy – turns softer power and allied coop**

Michael A. **Newton** – **2012**, Professor of the Practice of Law, Vanderbilt University Law School

Inadvertent Implications of the War Powers Resolution, Case Western Reserve Journal of International Law, vol 45, Fall 2012, [http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.10.Article.Newton.pdf](http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1%262.10.Article.Newton.pdf)

The War Powers Resolution is an outdated and demonstrably irrelevant relic of a bygone era of American political life. Its vestigial remains nevertheless result in heated debates between the coordinate branches of the federal government. This is especially true in the modern era of uncertainty regarding the precise scope of international authority for the use of force. At the time of this writing, debate continues over the adoption of the crime of aggression in the Rome Statute of the International Criminal Court. Current texts require that trans-state aggression must be “manifest” in order to warrant criminal sanction.87 The function of the threshold is twofold. First, it implies a magnitude test by referring to the gravity and scale of the act of aggression. Second, by referring to the character, the threshold poses a qualitative requirement: the state use of force must be unambiguously illegal. This qualitative aspect is very important because there has been extensive debate on whether Article 2(4) of the UN Charter is dead or useless because of its complete indeterminacy.88 The prohibition arising from international law on the use of force is surrounded by a legal grey area of some significance. The scope of anticipatory self-defense and forcible rescue operations at this juncture as well as some forms of humanitarian intervention remain defensible but unclear under international law. 89 In all those cases, reasonable international lawyers may disagree about the current state of the law. It would be thoroughly unwise to try to clarify this grey area through the back door of the international criminal justice system, and it is my opinion that the International Criminal Court should avoid these murky waters. However, unresolved domestic debates over the War Powers Resolution run the risk of undermining the US posture in these diplomatic debates even as they weaken national resolve and undermine the efficiency of our deployed forces. The War Powers Resolution should be repealed and replaced with a more modern and flexible formulation that balances these important needs and helps to ensure a synergy between the coordinate branches of government and the forces in the field.

**1NR**

**Growth solves the case**

**Eiras 4** (Ana Isabel , Senior Policy Analyst for International Economics in the Center for International Trade and Economics at The Heritage Foundation, Why America Needs to Support Free Trade)

REASON #5: Peace Free trade fosters an enormous chain of economic activity, the benefits of which culminate in a social desire to be at peace with neighboring and even faraway nations with which trade is conducted or might be conducted in the future. When individuals see how beneficial it is to live in an economically free society; when they see how freedom allows them to improve their lives and those of their families; when they can create new businesses, engage in commerce, or work for a decent salary or wage, adding dignity to their lives, they want peace to preserve all these good things. By contrast, when people live under economic oppression and are at the mercy of a small ruling authority that dictates every aspect of their lives and limits their ability to realize their potential, they resent the life they have and learn to hate better lives elsewhere. If they cannot enjoy the fruits of their efforts and cannot realize their potential; if they cannot feel free to do business, work freely, and trade freely; if they do not have anything to gain or to lose, they begin to feel that any change--even war--might be better. They have no incentive to desire peace with their neighbors. For this reason, the areas of greatest conflict in the world also happen to be those that are economically repressed. (See Map.) The Economic Freedom Map, drawn annually from the Index, shows, for example, that countries that are the most economically repressed have also suffered civil wars and unrest. The areas of the Middle East in which civil wars and terrorist havens abound are both economically repressed and mostly unfree. North Korea, a country plagued by starvation and poverty, is repressed. Brazil, Argentina, parts of Africa, and some former Soviet republics--all mostly unfree--have high levels of poverty and periodically suffer political and economic crises. Free trade and economic freedom set the process of growth, innovation, and prosperity in motion. In that process, individuals support the creation of institutions that are conducive to growth and that preserve peace and prosperity**. The greater the level of prosperity, the greater the likelihood of peace.**

**T-Bond crisis turns food**

**Min 10 –** (David, Associate Director for Financial Markets Policy – Center for American Progress, “The Big Freeze”, 10-28, http://www.americanprogress.org/issues/2010/10/big\_freeze.html)

A freeze on the debt ceiling could erode confidence in U.S. Treasury bonds in a number of ways, creating further and wider panic in financial markets. First, [by causing a disruption in the issuance of Treasury debt, as happened in 1995-96](http://www.gao.gov/archive/1996/ai96130.pdf), a freeze would cause investors to seek alternative financial investments, even perhaps causing a run on Treasurys. Such a run would cause the cost of U.S. debt to soar, putting even more stress on our budget, and the resulting enormous capital flows would likely be highly destabilizing to global financial markets, potentially creating more asset bubbles and busts throughout the world. Second, the massive withdrawal of public spending that would occur would cause significant concern among institutional investors worldwide that the U.S. would swiftly enter a second, very deep, recession, raising concerns about the ability of the United States to repay its debt. Finally, the sheer recklessness of a debt freeze during these tenuous times would **signal** to already nervous investors that there was a significant amount of political risk, which could cause them to shy away from investing in the **U**nited **S**tates generally. Taken together, these factors would almost certainly result in a significant increase in the interest rates we currently pay on our national debt, currently just above 2.5 percent for a 10-year Treasury note. If in the near term these rates moved even to 5.9 percent, the long-term rate predicted by the Congressional Budget Office, then our interest payments would increase by more than double, to nearly $600 billion a year. These rates could climb even higher, if investors began to price in a “default risk” into Treasurys—something that reckless actions by Congress could potentially spark—thus greatly exacerbating our budget problems. The U.S. dollar, of course, is the world’s reserve currency in large part because of the depth and liquidity of the U.S. Treasury bond market. If this market is severely disrupted, and investors lost confidence in U.S. Treasurys, then it is unclear where nervous investors might go next. A sharp and swift move by investors out of U.S. Treasury bonds could be highly destabilizing, straining the already delicate global economy. Imagine, for example, if investors moved from sovereign debt into commodities, most of which are priced and traded in dollars. This could have the catastrophic impact of weakening the world’s largest economies while also **raising the prices of** the basic inputs (such as metals or **food**) that are necessary for economic growth. In short, a freeze on the debt ceiling would cause our interest payments to spike, making our budget situation even more problematic, while potentially triggering greater **global instability**—perhaps even a global economic depression.

**Turns cred**

**Harl, 10**

al Harl, professor economics, Iowa State Univ. 11.20.10

[http://www.desmoinesregister.com/article/20101120/OPINION01/11200313/-1/SPORTS12/Guestcolumn-A-perfect-fiscal-storm-may-be-brewing]

Another way to begin is **to refuse to raise the federal debt limit**, as some key Republicans propose. **The consequences of that could be breathtakingly tragic. If the government is unable to pay interest on the debt** and to refinance expiring issues, **the obvious result is default. The consequences of a default would do untold damage to the standing of the United States as a debtor nation and would raise the specter of another Greece**. **But the impact would be several times greater, with any meaningful rescue beyond the financial ability of any nation - or group of nations. And it could happen fast.**

**Turns morale**

**Army Times 1/13,** <http://www.armytimes.com/article/20130114/BENEFITS/301140334/Troop-pay-threatened-by-debt-ceiling-standoff>

Federal employees and **military service members will not get paid if Congress does not raise the debt ceiling**, President Obama said Monday.

The **government also would not be able to honor its contracts with small-business owners, and Social Security checks and benefits for veterans would be delayed**, Obama said during a news conference.

**Turns SOP perception --- WWII proves hard times cause authoritarian leaders to rise**

**Turns Constitutional Signal**

**Krugman, 9/29 --- Professor of Economics and International Affairs at Princeton**

(Paul, 9/29/2013, “Rebels Without a Clue,” <http://www.nytimes.com/2013/09/30/opinion/krugman-rebels-without-a-clue.html>)

Meanwhile, on the politics, reasonable people know that Mr. Obama can’t and won’t let himself be blackmailed in this way, and not just because health reform is his key policy legacy. After all, once he starts making concessions to people who threaten to blow up the world economy unless they get what they want, he might as well **tear up the Constitution**. But Republican radicals — and even some leaders — still insist that Mr. Obama will cave in to their demands.

**Means nobody models us**

**Delamaide, 9/27** --- political columnist for MarketWatch in Washington (9/27/2013, Darrell, MarketWatch, “Congress starting to resemble the United Nations; Commentary: If we have a broken government, can we really be exceptional?” Factiva))

What a sorry farce government has become, as egos and ambitions run unbridled in our nation’s capital, equaled only by the myopia of not being able to see further than the next procedural victory. **The brinksmanship over shutting down the government and risking default on U.S. debt is the ultimate test of American “exceptionalism.” Can we parade our political dysfunction before the world and still retain the respect of other nations? Ask smirking** Russian President Vladimir **Putin about that**. Can we as the issuer of the world’s reserve currency manage a debt default without any long-term consequences? Heck, yes, seems to be the attitude of some cowboys in Washington. We’re the greatest nation on earth and we don’t have to follow the rules other nations follow, they imply. President Barack **Obama went to the** **U**nited **N**ations **this week to tell assembled world leaders that “America is exceptional — in part because we have shown a willingness, through the sacrifice of blood and treasure, to stand up not only for our own narrow self-interest, but for the interests of all.” How credible are these words when our politicians can’t overcome their own narrow self-interest to take care of the commonweal in this country? Does anyone believe that America wants to guarantee the security of Syrian children when our lawmakers won’t even provide food for hungry children at home?** Most Americans yawn when the news turns to the United Nations. We have come to dismiss the organization founded with such idealism after World War II as an ineffectual talking shop. The General Assembly is useless, most people believe, because it is filled with crazy radicals who push for powerless motions that a sullen majority approves. The problem is that our House of Representatives is coming to fit that description, too. The Security Council has limited usefulness because individual members can indefinitely block action with a veto. Sometimes our Senate seems to be similarly ineffective. The difference is that we need the U.S. government to send out the Social Security checks we have invested in through our payroll tax, and to make the Medicare payments that have been guaranteed by that same tax. We need the government to step in and sustain a certain minimum standard of living that we feel is appropriate for the wealthiest nation on the planet. If markets seem calm, it’s because investors have come to regard the shenanigans in Washington as a sideshow. The Republicans have been crying wolf for so long and so repeatedly that no one believes the threat. Lew, for his part, has little choice but to play it straight and discharge his duty as a government official. So he reaffirmed earlier warnings in a letter this week to House Speaker John Boehner, telling him that Treasury’s ability to juggle payments will finally come to an end Oct. 17, when the government will have only $30 billion in the kitty, compared to daily expenditures that can run to $60 billion. “If we have insufficient cash on hand, it would be impossible for the United States of America to meet all of its obligations for the first time in our history,” Lew wrote. The Treasury secretary rejected Republican proposals to prioritize payments in order to pay creditors, calling it “default by another name.” “The United States should never have to choose, for example, whether to pay Social Security to seniors, pay benefits to our veterans, or make payments to state and local jurisdictions and health care providers under Medicare and Medicaid,” he said in his letter. “There is no way of knowing the damage any prioritization plan would have on our economy and financial markets.” **The next few weeks will tell us and the rest of the world what kind of country we are. We can’t afford a broken government. We aren’t that exceptional.**

**2nc Uniqueness / 2nc Focus Tradeoff Link \*\*\***

**Maintaining a CONSTANT FOCUS on his fiscal battles with Republicans will ensure a successful outcome**

**Millbank, 9/27** (Dana, 9/27/2013, “Obama should pivot to Dubya’s playbook,” <http://articles.washingtonpost.com/2013-09-27/opinions/42446718_1_president-obama-house-republicans-debt-limit>))

**If** President **Obama can stick to his guns, he will win his October standoff with Republicans.**

That’s an awfully big “if.”

This president has been consistently inconsistent, predictably unpredictable and reliably erratic. Consider the events of Thursday morning:

Obama gave a rousing speech in suburban Washington, in defense of Obamacare, on the eve of its implementation. “We’re now only five days away from finishing the job,” he told the crowd.

But before he had even left the room, his administration let slip that it was delaying by a month the sign-up for the health-care exchanges for small businesses. It wasn’t a huge deal, but it was enough to trample on the message the president had just delivered.

**Throughout his presidency, Obama has had great difficulty delivering a consistent message. Supporters plead for him to take a position — any position — and stick with it.** His shifting policy on confronting Syria was the most prominent of his vacillations, but his allies have seen a similar approach to the Guantanamo Bay prison, counterterrorism and climate change. Even on issues such as gun control and immigration where his views have been consistent, Obama has been inconsistent in promoting his message. Allies are reluctant to take risky stands, because they fear that Obama will change his mind and leave them standing alone.

Now come the budget showdowns, which could define the rest of his presidency. **Republican leaders are trying to shift the party’s emphasis from the fight over a government shutdown to the fight over the debt-limit increase**, where they have more support. A new Bloomberg poll found that Americans, by a 2-to-1 margin, disagree with Obama’s view that Congress should raise the debt limit without any conditions.

But **Obama has a path to victory**. That poll also found that Americans think lawmakers should stop trying to repeal Obamacare. And that was before House Republicans dramatically overplayed their hand by suggesting that they’ll allow the nation to default if Obama doesn’t agree to their laundry list of demands, including suspending Obamacare, repealing banking reforms, building a new oil pipeline, easing environmental regulations, limiting malpractice lawsuits and restricting access to Medicare.

**To beat the Republicans, Obama might follow the example of** a Republican, George W. **Bush**. Whatever you think of what he did, **he knew how to get it done: by simplifying his message and repeating it, ad nauseam, until he got the result he was after**.

**Obama instead tends to give a speech and move along to the next topic. This is why he is forever making “pivots” back to the economy**, or to health care. But **the way to pressure Congress is to be President One Note**.

**In the debt-limit fight, Obama already has his note: He will not negotiate over the full faith and credit of the** **U**nited **S**tates. That’s as good a theme as any; **it matters less what the message is than that he delivers it consistently**.

The idea, White House officials explained to me, is to avoid getting into a back-and-forth over taxes, spending and entitlement programs. “We’re right on the merits, but I don’t think we want to argue on the merits,” one said. “Our argument is not that our argument is better than theirs; it’s that theirs is stupid.”

This is a clean message: Republicans are threatening to tank the economy — through a shutdown or, more likely, through a default on the debt — and Obama isn’t going to negotiate with these hostage-takers.

Happily for Obama, Republicans are helping him to make the case by being publicly belligerent. After this week’s 21-hour speech on the Senate floor by Sen. Ted Cruz (R-Tex.), the publicity-seeking Texan and Sen. Mike Lee (R-Utah) objected to a bipartisan request to move a vote from Friday to Thursday to give House Republicans more time to craft legislation avoiding a shutdown. On the Senate floor, Sen. Bob Corker (R-Tenn.) accused them of objecting because they had sent out e-mails encouraging their supporters to tune in to the vote on Friday. The Post’s Ed O’Keefe caught Cruz “appearing to snicker” as his colleague spoke — more smug teenager than legislator.

**Even if his opponents are making things easier for him, Obama still needs to stick to his message.** As in Syria, the president has drawn a “red line” by saying he won’t negotiate with those who would put the United States into default. **If he retreats, he will embolden his opponents and demoralize his supporters**.

**Cancelled Asia trip proves the uniqueness and importance of focus**

**Cohen, et. al, 10/4** (Tom Cohen. Deirdre Walsh and Ed Payne, 10/4/2013, CNN Wire, “Hope for debt limit deal rises while shutdown standoff remains mired,” Factiva))

Obama out of APEC meeting

Meanwhile, **with his focus on the brewing domestic crisis, Obama canceled his trip to** the **Asia**-Pacific Economic Cooperation summit in Bali, Indonesia.

**"The president made this decision based on** the difficulty in moving forward with foreign travel in the face of a shutdown, and **his determination to continue pressing his case that Republicans should immediately allow a vote to reopen the government**," a statement from the White House said.

Instead, Secretary of State John Kerry will lead the U.S. delegation in Asia.

**All other issues have to be set aside to resolve fiscal crises --- the plan disrupts critical focus**

**Bowman, 9/26** (Michael, 9/26/2013, Voice of America Press Releases and Documents, “Fiscal Fights Snarl US Congress, Imperil Other Legislation,” Factiva))

CAPITOL HILL - With no clear path to avoid a U.S. government shutdown October 1, U.S. congressional leaders already are bracing for the next fight: to raise the federal borrowing limit before the United States hits its debt ceiling in mid-October. **While partisan fiscal battles risk economic damage, they also monopolize lawmakers' time and push other congressional business to the side.**

Democratic Congressman Jared Polis said the Republican-controlled House of Representatives should be working to reform America's immigration system rather than engaging in damaging fights centered on President Barack Obama's health care law.

"This body has not spent one minute on the floor in consideration of an immigration reform bill. Not one minute. A lot of time on nothing, nothing, nothing. We need to act on so many pressing national issues," said Polis.

Frustration is not limited to Democrats. Republican Senator Chuck **Grassley said there are many issues that deserve Congress' attention**. "Tax reform. A constitutional amendment requiring a balanced budget. A farm bill."

But with Congress already mired in a partisan fight to keep the government running, another battle is brewing. Thursday, House Speaker John Boehner said Republicans have conditions for raising the U.S. borrowing cap.

"We are going to introduce a plan that ties important spending cuts and pro-growth reforms to a debt-limit increase," said Boehner.

Failure to hike the borrowing limit could trigger a default and another downgrade of U.S. creditworthiness. Boehner's announcement was immediately blasted by Democratic Senator Richard Durbin. "If they [House Republicans] stand by their position and do not give us a clean extension of the debt ceiling, the victims will include all employees across America."

At the White House, spokesman Jay Carney repeated President Obama's refusal to negotiate on the debt ceiling.

**The bottom line? Congress and the White House are focused on two fiscal battles that will extend well into next month**. Even if a shutdown is averted, spending authority is only expected to be extended for two to three months, setting the stage for another spending showdown near the end of the year.

**"It pushes everything off the table," said political analyst** Stuart **Rothenberg**. **"The Congress has had a difficult time over the past few years raising the debt ceiling, dealing with budgets and spending, and keeping the government open. We are really going to have a legislative logjam here."**

One possible casualty is immigration reform. Conventional wisdom holds that Congress must act this year if reform is to succeed, since lawmakers will shy from casting politically-charged votes ahead of the 2014 mid-term elections.

**Political pressure from Obama is yielding progress --- GOP starting to crack**

**Lowrey & Parker, 10/4** (Annie Lowrey and Ashley Parker, 10/4/2013, International Herald Tribune, “Republican said to soften stance on debt limit; Speaker signals openness to deal as Obama steps up push for resolution,” Factiva))

As the **Obama** administration on Thursday **sharply stepped up the volume in its tense fiscal battle with Republicans**, with warnings from the president and the Treasury that a debt default could have a catastrophic global impact, a key Republican sent a message that he would not let that happen.

The twin warnings came from a Treasury Department report and a muscularly worded speech from President Obama, who said that unless Congress acted soon, ‘‘the whole world will have problems.’’

But **in a potentially critical development**, the speaker of the House, Representative John A. **Boehner** of Ohio, **told colleagues in a closed-door meeting that he was determined to prevent a federal default and was willing to pass a measure through a combination of Republican and Democratic votes**, according to a lawmaker who was there. Other Republicans said they had the same sense of his intentions.

The Treasury Department, in a report issued on Thursday, said the impasse over raising the debt limit, when the government runs out of money to service its debts at mid-month, could cause credit markets to freeze, the dollar to plummet and interest rates to rise sharply.

A default, the report said, could potentially result ‘‘in a financial crisis and recession that could echo the events of 2008 or worse,’’ with results — including higher interest rates, reduced investment, higher debt payments and slower growth — that ‘‘could reverberate around the world.’’ The impact, it says, ‘‘could last for more than a generation.’’

The report comes as **the White House has been steadily building up pressure on Congress to leave the statutory debt limit out of the broader negotiations over the budget and the health care law** that led early Tuesday to a government shutdown.

**As the stakes grew higher and the public began feeling the impact of the shutdown, there were signs, both public and private, of growing division within the Republican Party both over the shutdown and the debt limit.**

The lawmaker who reported on Mr. Boehner’s comment, speaking on the condition of anonymity, said the speaker had said he would be willing to violate the so-called Hastert rule if necessary to pass a debt limit increase. The informal rule refers to a policy of not bringing to the floor any measure that does not have a majority of Republican votes.

A spokesman for Mr. Boehner pushed back on the idea that the speaker would try to pass a debt-limit increase mainly with Democratic votes, but acknowledged that the speaker understood the need to head off a default.

‘‘The speaker always, always prefers to pass legislation with a strong Republican majority,’’ said the spokesman, Michael Steel.

**Other Republicans also said Thursday that they got the sense that** Mr. **Boehner would do whatever was necessary to ensure that the country did not default on its debt**.

Representative Michael G. Fitzpatrick, Republican of Pennsylvania, who was one of just 22 House Republicans this year who helped Mr. Boehner pass three crucial bills with a majority of Democratic support — to avert a fiscal showdown, to provide relief for the victims of Hurricane Sandy and to pass the Violence Against Women Act — said he expected that he might be asked to do so again.

‘‘Hurricane Sandy, the fiscal cliff, all of the big votes require reasonable Republicans and Democrats to come together in order to pass it and get it to the president’s desk,’’ Mr. Fitzpatrick said. ‘‘This will be no different.’’

**GOP will cave**

**Cohen, et. al, 10/4** (Tom Cohen. Deirdre Walsh and Ed Payne, 10/4/2013, CNN Wire, “Hope for debt limit deal rises while shutdown standoff remains mired,” Factiva))

WASHINGTON (CNN) -- House Speaker John Boehner and fellow GOP lawmakers meet to discuss the government shutdown Friday, a day after the Republican leader reportedly told fellow legislators that he won't allow the United States to default on its debt.

Congressional Republicans remain divided over how to structure legislation to raise the nation's borrowing level, and with only two weeks before the debt ceiling deadline, there is still no plan to avoid a default.

But **at a meeting** Wednesday **with House GOP members, Boehner said he would not allow a default to happen, even if it means getting help from Democrats**, according to a Republican House member who requested anonymity to talk about the private meeting.

A Boehner aide said Thursday that the speaker "has always said the United States will not default on its debt, so that's not news."

Democratic Sen. Charles **Schumer** of New York **cheered the prospect of the GOP leader refusing to block at least this measure**, which President Barack Obama and his fellow Democrats strongly support.

**"This could be the beginnings of a significant breakthrough,"** Schumer said in a statement. "Even coming close to the edge of default is very dangerous, and **putting this issue to rest significantly ahead of the default date would allow everyone in the country to breathe a huge sigh of relief."**

The potential breakthrough -- at least on the debt limit -- came two weeks before the government is set to run out of money to cover its roughly $16.7 trillion debt. If the debt ceiling isn't bumped up, the country goes into default.

Conservative Republicans want budget cuts in exchange for upping the credit limit.

Boehner wrote this week in USA Today that "there is no way Congress can or should pass (a debt ceiling increase) without spending cuts and reforms to deal with the debt and deficit and help get our economy moving again."

He accused the president of refusing to negotiate; Obama and Democratic leaders have since said they are open to talks on any and all budgetary matters, but only after the government is reopened.

**AT: Boehner Doesn’t Really Want to Cooperate**

**Chiles cites NOBODY ---reject unwarranted blustering**

**Key indicators prove Boehner’s flexible**

**Sargent, 10/4** (Greg, 10/4/2013, Washington Post.com, “John Boehner gives away the game (a bit),” Factiva))

Multiple reports today inform us that John Boehner is privately telling colleagues that in the end, he won't allow default and will even let a debt ceiling hike pass with mostly Dem votes if it comes down to it. Plenty of folks are rightly skeptical about this development. But it's not entirely without significance.

The Post's account points out that this may be a trial balloon designed to gauge how this will play with conservatives. Meanwhile, **a spokesman for Boehner has been reiterating that Boehner does not intend to allow default, even as that spokesman is simultaneously reiterating that he will expect concessions in exchange for raising the debt limit, anyway.** Why? Because a "clean" debt limit cannot pass the House.

This is a variation on the glaring absurdity that's been at the heart of Boehner's position for some time, i.e, the simultaneous insistence that he knows the debt limit hike must happen -- and that the contrary is not an option -- even as he asks us to grant the presumption that the prospect of default gives him leverage. The twist added here is that this leverage is derived from the fact that only way to avert default is for Dems to give up enough in concessions so a high enough number of Republicans will vote to raise the debt limit to get it through. The game is that Boehner knows it must be raised -- wink, wink -- but all those crazies in his caucus will need some goodies to get them to go along.

Note these details from the Post's write up:

In a series of small-group meetings in his office suite, Boehner has told fellow Republicans that he will not permit a vote on a "clean" short-term spending bill that does not end or delay parts of the new federal health-care law. But the aides indicated that Boehner is willing to risk infuriating some of the most conservative House GOP lawmakers by relying on a majority of Democratic votes — and less than a majority of Republicans — to pass a debt-ceiling increase.

What still needs to be nailed down is whether Boehner is prepared to allow a vote on a "clean" debt ceiling increase. Quotes from his spokespeople suggest not, but on the other hand, if a debt ceiling increase is going to pass with mostly Dems, it would have to be clean. More clarification here would be useful.

**More broadly, what seems to be going on here is that this is Boehner's "big give,"** as one Dem aide put it to me sarcastically. **Boehner is signaling flexibility in the sense that he just may be willing to give Dems the "clean" debt ceiling increase they want, but only in a larger context where Dems will be expected to make concessions in exchange for keeping the government open.** In other words, whether or not Boehner ends up being open to a "clean" debt ceiling vote, the larger picture will remain that Democrats will still have to hand over a series of concessions in exchange for GOP cooperation in returning us to something resembling governing normalcy.

So in one sense, this isn't much of a concession. On the other hand, **the mere fact that Boehner sees a need to telegraph nominal flexibility to begin with could be a key tell. With Obama warning that Wall Street should take the possibility of default seriously, Boehner seems to see a need to underscore, again, that he will not allow default** under any circumstances, and that keeping alive any doubts about this is politically untenable. Dems will look at this and probably only be even more encouraged to hold to a hard line on both the government shutdown and the debt limit. Boehner's trial balloon is also useful in the sense that it makes the glaring absurdity that's always been at the heart of his position even more glaringly absurd.

**He will compromise**

**Lowrey & Parker, 10/4** (Annie Lowrey and Ashley Parker, 10/4/2013, International Herald Tribune, “Republican said to soften stance on debt limit; Speaker signals openness to deal as Obama steps up push for resolution,” Factiva))

As the Obama administration on Thursday sharply stepped up the volume in its tense fiscal battle with Republicans, with warnings from the president and the Treasury that a debt default could have a catastrophic global impact, a key Republican sent a message that he would not let that happen.

The twin warnings came from a Treasury Department report and a muscularly worded speech from President Obama, who said that unless Congress acted soon, ‘‘the whole world will have problems.’’

But in a potentially critical development, the speaker of the House, Representative John A. **Boehner** of Ohio, **told colleagues in a closed-door meeting that he was determined to prevent a federal default and was willing to pass a measure through a combination of Republican and Democratic votes, according to a lawmaker who was there. Other Republicans said they had the same sense of his intentions.**

**AT: Shutdown**

**Shutdown can’t thump ptx --- their ev is 6 days old and concludes it makes Obama stronger --- your card**

**NBC, 9-30**-2013 <http://nbcpolitics.nbcnews.com/_news/2013/09/30/20758038-shutdown-seems-all-but-certain-as-hours-quickly-dwindle?lite>

A shutdown would have **serious implications for the American economy**, which is still struggling to recover from the depths of the 2008-09 financial crisis. But a shutdown – the first since the mid-90s showdown between President Bill Clinton and his Republican adversaries in Congress – would have broad political ramifications for the GOP, as well.¶ NBC's political director Chuck Todd says that though some Republicans won't budge on their party's stance on the healthcare law, there is a group of Republicans who could convince John Boehner to make a temporary deal.¶ Amid warnings from a number of Republican elders that a **shutdown could damage the GOP** and hamper its chances in next fall's midterm elections, a CNN/ORC poll found that Republicans in Congress would shoulder more of the blame for a shutdown. Forty-six percent of Americans said that Republicans on Capitol Hill would be mostly responsible for a shutdown, versus 36 percent who would blame Obama and 13 percent who would blame both.¶ This sense that Democrats enjoy a political advantage should a shutdown come to pass has emboldened Obama and his allies on Capitol Hill to hold their negotiating position with Republicans.¶ And if a shutdown does occur at midnight, the **political fallout** from it could shape a higher-stakes fight as it plays out over the first few weeks of October. Lawmakers have until Oct. 17 to raise the nation’s debt ceiling, meaning the shutdown and the political consequences of it will **almost certainly** play directly into the politics of a **tenser vote** over whether to approve more borrowing to fund the government’s existing obligations.

**Debt ceiling is the SOLE FOCUS – that’s above**

**Debt ceiling is way more important for the economy because instead of a layoff of some employees it’s SHUTTING DOWN THE CURRENCY**

**AT: Backpay Vote**

**Backpay vote thumper would thump a link WE DIDN’T READ --- they answered a popularity disad --- losing on the aff makes Republicans think Obama will cave --- this is a CONCEDED LINK --- your ev just says there’s “hot contestation” and it’d be after DC**

**2nc Key to Economy \*\*\***

**GIVING IN to Republicans causes future standoffs that have a cumulative effect on the economy**

**Chait 9/13** Jonathan, New York Mag, Boehner to Obama: Can I Please Take You Hostage?, 9/13/13, http://nymag.com/daily/intelligencer/2013/09/boehner-to-obama-can-i-please-take-you-hostage.html

But **Boehner** isn’t proposing to attach a perfunctory debt-ceiling hike to “bipartisan solutions,” as has happened in the past. He **is proposing that the opposition party extract unacceptable conditions as the price of lifting the debt ceiling**. That is an unprecedented demand. Under the Bush presidency, Democrats objected that tax cuts had created un unsustainable fiscal position for the government, but it never even occurred to them to threaten to trigger a debt default to force Bush to repeal his tax cuts. **Before 2011, the debt ceiling was an occasion for posturing by the out-party and was sometimes raised in conjunction with mutually agreeable policy changes, but the opposition never used the threat of default as a hostage.¶ Boehner’s correct that the hostage-taking negotiation he wants to hold again did occur once before in 2011. But that was a white-knuckle experience that very nearly led to default**, has put in place an extremely stupid policy, and amounted to a gigantic blunder by Obama that he is rightly determined not to repeat. **Enshrining the precedent that the opposition party can use the debt ceiling to extract otherwise unacceptable conditions would create a permanent cycle of crisis, where every fiscal negotiation carries a systemic risk**. Democrats would be much better off letting Republicans default on the debt right now than submitting to a new normal whereby they get jacked up for concessions over and over until eventually there’s a default anyway. That is why Obama can’t go along with Boehner’s innocuous-sounding request to combine debt-ceiling negotiations with fiscal-policy negotiations.

**And causes defaut that shatters investor confidence --- they concede we’ll tighten up monetary policy which collapses trade --- that’s a UNIQUE SCENARIO for GLOBAL COLLAPSE --- that’s Davidson**

**No alarmism – economists agree**

**Weisman, 9/27** (Jonathan, 9/27/2013, Pittsburgh Post-Gazette, “GOP SHIFTS FOCUS OF BATTLE TO DEBT LIMIT AS PRESIDENT OBAMA SCORNS REPUBLICAN EFFORTS TO STOP THE HEALTH CARE LAW'S MAIN ELEMENTS FROM TAKING EFFECT ...” Factiva))

**Economists of all political persuasions have warned that a failure to raise the debt ceiling** by the Treasury Department's deadline of Oct. 17 **could be catastrophic. The world economy's faith in the safety of U.S. Treasury debt would be shaken for years, they believe. Interest rates could shoot up, and stock prices worldwide would most likely plummet. "Defaulting on any obligation of the U.S. government would be a dangerous gamble,"** Doug **Elmendorf, director of the** nonpartisan **C**ongressional **B**udget **O**ffice, told the House Budget Committee on Thursday. **"In a very uncertain world, the one thing everyone has been able to count on is that the U.S. government will pay its bills on time."**

**--- Crushes markets**

**Green, 9/27** --- national correspondent at Bloomberg Businessweek (9/27/2013, Joshua, The Boston Globe, “Root for a shutdown ; It's the best way to jolt Washington back to its senses,” Factiva))

A shutdown would be far less costly than default. Unless Congress acts, most government agencies will shut down on Tuesday. This would inconvenience millions and waste plenty of money, but it wouldn't affect "mandatory" programs, such as Medicare, Medicaid, Social Security, or nutrition assistance. Americans would be angry. The stock market might drop. But we've lived through this before. By contrast, **a default would be catastrophic. Markets would plummet. Interest rates would rise, probably permanently, because lenders would price in the now-very-real risk of default, making everything from mortgages to cars to college educations more expensive.** The government itself would also face higher borrowing costs -- a Treasury Department study found that a single percentage-point increase in interest rates would cost taxpayers an additional $150 billion a year. Worst of all, **a default would almost certainly snuff out the recovery and bring on another recession**.

**--- Triggers a full blown recession**

**Contorno, 9/25** (Steve, “Not Raising Debt Limit Would Be 'Cataclysmic'” 9/25/2013, <http://www.hispanicbusiness.com/2013/9/25/not_raising_debt_limit_would_be.htm>))

**An economist for Moody's sounded the alarm** Tuesday **that a government shutdown or a default on the country's debt would derail an already tepid recovery and perhaps ignite a new recession.** Testifying before a Senate Budget Committee, Mark **Zandi, chief economist for the credit rating agency** and a former adviser to Sen. John McCain's presidential campaign, warned that political uncertainty in Washington was stifling economic growth. While he was critical of regulations handed down from the Obama administration, Zandi also **cautioned that the brinksmanship displayed by Republicans over the debt ceiling and government funding fight was of grave concern to investors, entrepreneurs and even middle-class Americans. "Breaching the debt limit would be cataclysmic -- a full-blown recession,"** said Mark Zandi, chief economist for Moody's. "It is critical you come to terms on this in a timely way."

**No impact**

**Barnett 9** (Thomas, Senior Strategic Researcher – Naval War College, “The New Rules: Security Remains Stable Amid Financial Crisis”, Asset Protection Network, 8-25, http://www.aprodex.com/the-new-rules--security-remains-stable-amid-financial-crisis-398-bl.aspx)

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had **virtually no impact** whatsoever on the international security landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) **predates** the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process **wholly unrelated** to global economic trends. And with the **U**nited **S**tates effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite **modest**, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much **let it burn**, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); The usual frequency maintained in civil conflicts (in all the usual places); **Not a single state-on-state war directly caused** (and no great-power-on-great-power crises even triggered); No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars." Instead, the **W**orld **T**rade **O**rganization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order. Do I expect to read any analyses along those lines in the blogosphere any time soon? Absolutely not. I expect the **fantastic fear-mongering** to proceed apace. That's what the Internet is for.

**Econ impact**

**Defense doesn’t assume an ABRUBT DEFAULT that SHREDS THE SOCIAL SAFETY NET and sends MASSIVE INTERNATIONAL REIPPLE EFFECTS**

**Studies prove!**

**Royal 10** Director of Cooperative Threat Reduction at the U.S. Department of Defense (Jedediah, 2010, Economic Integration, Economic Signaling and the Problem of Economic Crises, in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-215)

Less intuitive is how periods of economic decline may **increase the likelihood of external conflict**. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent stales. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level. Pollins (20081 advances Modclski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody **transition** from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin. 19SJ) that leads to uncertainty about power balances, increasing the risk of **miscalculation** (Fcaron. 1995). Alternatively, even a relatively certain **redistribution** of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner. 1999). Separately. Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level. Copeland's (1996. 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states arc likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4 Third, others have considered the link between economic decline and external armed conflict at a national level. Mom berg and Hess (2002) find a **strong correlation** between internal conflict and external conflict, particularly during periods of economic downturn. They write. The linkage, between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict lends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other (Hlomhen? & Hess. 2(102. p. X9> Economic decline has also been linked with an increase in the likelihood of terrorism (Blombcrg. Hess. & Wee ra pan a, 2004). which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. "Diversionary theory" suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1996), DcRoucn (1995), and Blombcrg. Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force arc at least indirecti) correlated. Gelpi (1997). Miller (1999). and Kisangani and Pickering (2009) suggest that Ihe tendency towards diversionary tactics arc greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked lo an increase in the use of force.

**Double dip recessions are uniquely escalatory**

**Fordham 10** [Tina Fordham, “Investors can’t ignore the rise of geopolitical risk”, Financial Times, 7-17-2010, <http://www.ft.com/cms/s/0/dc71f272-7a14-11df-9871-00144feabdc0.html>]

Geopolitical risk is on the rise after years of relative quiet – potentially creating further headwinds to the global recovery just as fears of a double-dip recession are growing, says Tina Fordham, senior political analyst at Citi Private Bank. “Recently, markets have been focused on problems within the eurozone and not much moved by developments in North Korea, new Iran sanctions, tensions between Turkey and Israel or the unrest in strategically significant Kyrgyzstan,” she says. “But taken together, we don’t think investors can afford to ignore the return of geopolitical concerns to the fragile post-financial crisis environment.” Ms Fordham argues the end of post-Cold War US pre-eminence is one of the most important by-products of the financial crisis. “The post-crisis world order is shifting. More players than ever are at the table, and their interests often diverge. Emerging market countries have greater weight in the system, yet many lack experience on the global stage. Addressing the world’s challenges in this more crowded environment will be slower and more complex. This increases the potential for proliferating risks: most notably the prospect of politically and/or economically weakened regimes obtaining nuclear weapons; and military action to keep them from doing so. “Left unresolved, these challenges could disrupt global stability and trade. This would be a very unwelcome time to see the return of geopolitical risk.”

**Intrinsic**

**YES INTRINSIC --- PROVEN BY THE LINK**

**C/I JUDGE DETERMINES WHETHER AFF SHOULD BE INTRODUCED**

**THEY KILL PTX --- ONLY GOOD DISAD**

**THEY JUSTIFY FIATING OUT OF ALL DISADS**

**Loss**

**Plan is a perceived loss for Obama that saps his capital**

**Loomis, 7** --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <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.

This brief review of the literature suggests how **legitimacy norms enhance presidential influence in ways that structural powers cannot explain**. Correspondingly, **increased executive power improves the prospects for policy success**. As a variety of cases indicate—from Woodrow Wilson’s failure to generate domestic support for the League of Nations to public pressure that is changing the current course of U.S. involvement in Iraq—the effective execution of foreign policy depends on public support. Public support turns on perceptions of policy legitimacy. As a result, policymakers—starting with the president—pay close attention to the receptivity that U.S. policy has with the domestic public. In this way, normative influences infiltrate policy-making processes and affect the character of policy decisions.

**Responsibility**

**And the responsibility link — the plan makes Congress responsible for the War on Terror — they’re politically opposed to that**

**Devins, 9** --- Professor of Law and Professor of Government, College of William and Mary

(Spring 2009, Neal, Willamette Law Review, “PRESIDENTIAL UNILATERALISM AND POLITICAL POLARIZATION: WHY TODAY'S CONGRESS LACKS THE WILL AND THE WAY TO STOP PRESIDENTIAL INITIATIVES,” 45 Willamette L. Rev. 395))

The practices of the current Congress are to be expected. **Members of Congress hardly ever gain personal political advantage by embracing structural checks of presidential power**. Just as Congress has incentive to delegate to the executive (rather than absorb the costs of making a decision that disfavors identifiable participants in the political process), **Congress is more interested in responding to executive branch initiatives than in foreclosing particular types of initiatives.** n63 Sometimes, as was true with the 1974 budget act, structural reforms serve the personal interests of members of Congress. In that case, members had a personal political interest to protect their authority to enact budget bills that reward constituents. **Most of the time**, however, **Congress would rather respond to presidential initiatives than place restrictions on presidential authority** - **restrictions that shift the locus of decision making power to Congress (so that Congress bears the cost of decision).** For this very reason, lawmakers rarely advance their personal political interests by structurally constraining the President in ways that shift the decision back to Congress. Indeed, the War Powers Resolution - while ostensibly placing limits on the President - gave the President significant authority to launch unilateral military strikes. Congress's assent was not required until 60 days after the President's initiative [\*415] (and only if the President triggered the clock by making a formal report to Congress). n64 As such, Congress - while insisting it had a role to play - was content to play a reactive role. Long story short: Not only does political polarization stand as a roadblock to the modern Congress standing up for its institutional prerogatives, but **lawmakers typically do not gain personal political advantage by placing structural limits on presidential power**.

**Partisanship**

**And the partisan political climate magnifies all our links**

**Crook, 12** --- arbitrator in NAFTA and other investment disputes and served on the Eritrea-Ethiopia Claims Commission, teaches international arbitration at George Washington University Law School (Fall 2012, John R. Cook, Case Western Reserve Journal of International Law, “Presidential Powers and Foreign Affairs: The War Powers Resolution at 40: Still Controversial: The War Powers Resolution--A Dim and Fading Legacy,” 45 Case W. Res. J. Int'l L. 157))

IV. Conclusion

The War Powers Resolution has, at most, only influenced decisions involving the use of U.S. armed forces at the margins. It seems likely to have less impact going forward.

So as Lenin famously asked, "what is to be done?" I don't know the answer. **Today's political climate is harshly partisan. The political branches cannot come to reasonable accommodations on matters of far more immediate importance than revising the War Powers Resolution**. n69 **Even in less partisan times, it is difficult to envision mechanisms for effective congressional-executive interaction in use-of-force decisions that are both constitutionally appropriate and likely to stand up in the face of actual events. Past proposals for revision and reform have not made it past the starting line.** n70

Our current inability to have a sensible conversation about the appropriate interplay between Congress and the president in matters involving the use of force is troubling. As noted here, there has been a blurring of many of the traditional boundaries that determine how the United States identifies its enemies and uses force against them. At the same time, there has been a profound shift in the makeup of the U.S. armed forces. The Vietnam-era draft made that war a central fact in the lives of millions of young men and their families, giving issues of war or peace immediacy that they do not have today. The United States now relies upon highly professional armed forces. While bumper stickers on civilians' cars urge us to "support the troops," those "troops" make up a tiny percentage of the population, living [\*172] and performing their duties in a world separate and apart from most of us. n71

Together, these things may make it easier--perhaps too easy--for any president to decide to use force in doubtful circumstances. There is a need for an effective mechanism to better assure that such decisions are wise and will enjoy the support of the American people. Unfortunately, the War Powers Resolution is not that mechanism.