# T

### A2 restrict = eliminate

#### We meet – the plan limits authority to conduct TK outside of zones – daskal policy limits not restrictions on authorty

Daskal 13 - Fellow and Adjunct Professor, Georgetown Center on National Security and the Law

University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 2013, 161 U. Pa. L. Rev. 1165, Lexis

Of course, there are a number of possible ways to define the threat. For lethal targeting, I suggest two such categories: (1) those involved in the active planning or operationalization of specific, imminent, and externally focused attacks, regardless of their relative hierarchical position in the organization; and (2) operational leaders who present a significant, ongoing, and externally focused threat, even if they are not implicated in the planning of a specific, imminent attack. n141 The first definition is a conduct-based test that prohibits [\*1211] the use of lethal force absent a specific, imminent, and significant threat. The second definition encompasses those who pose a continuous and significant threat given their leadership roles within an organization. n142 Whether an individual meets this threat requirement depends on the individual's role within the organization, his capacity to operationalize an attack, and the degree to which the threat is externally focused. For example, an al Shabaab operational leader, whose attacks are focused on the internal conflict between al Shabaab and Somalia's Transnational Federal Government, would not qualify as a legitimate target in the separate conflict between the United States and al Qaeda, even if he had demonstrated associations with al Qaeda. He might, however, be a legitimate target if he were involved in the planning of externally focused attacks and had demonstrated the capacity and will to operationalize the attacks. n143¶ Such restrictions serve the important purpose of limiting state authority to target and kill to instances in which the individual poses an active, ongoing, and significant threat. The low-level foot soldier who is found thousands of miles from the hot conflict zone could not be targeted unless involved in the planning or preparation of a specific, imminent attack. Even mid-level operatives, such as the prototypical terrorist recruiter, would be off-limits, unless they were plotting, or recruiting for, a specific, imminent attack. n144 Such recruiters could, however, be prosecuted for providing material support to a terrorist organization. n145

#### C/I --- Restriction is limitation, NOT prohibition

CAC 12,COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, COUNTY OF LOS ANGELES, Plaintiff and Respondent, v. ALTERNATIVE MEDICINAL CANNABIS COLLECTIVE et al., Defendants and Appellants, DIVISION ONE, 207 Cal. App. 4th 601; 143 Cal. Rptr. 3d 716; 2012 Cal. App. LEXIS 772

We disagree with County that in using the phrases “further restrict the location or establishment” and “regulate the location or establishment” in [\*615] section 11362.768, subdivisions (f) and (g), the Legislature intended to authorize local governments to ban all medical marijuana dispensaries that are otherwise “authorized by law to possess, cultivate, or distribute medical marijuana” (§ 11362.768, subd. (e) [stating scope of section's application]); the Legislature did not use the words “ban” or “prohibit.” Yet County cites dictionary definitions of “regulate” (to govern or direct according to rule or law); “regulation” (controlling by rule or restriction; a rule or order that has legal force); “restriction” (a limitation or qualification, including on the use of property); “establishment” (the act of establishing or state or condition of being established); “ban” (to prohibit); and “prohibit” (to forbid by law; to prevent or hinder) to attempt to support its interpretation. County then concludes that “the ordinary meaning [\*\*\*23] of the terms, ‘restriction,’ ‘regulate,’ and ‘regulation’ are consistent with a ban or prohibition against the opening or starting up or continued operation of [a medical marijuana dispensary] storefront business.” We disagree.¶CA(9)(9) The ordinary meanings of “restrict” and “regulate” suggest a degree of control or restriction falling short of “banning,” “prohibiting,” “forbidding,” or “preventing.” Had the Legislature intended to include an outright ban or prohibition among the local regulatory powers authorized in section 11362.768, subdivisions (f) and (g), it would have said so. Attributing the usual and ordinary meanings to the words used in section 11362.768, subdivisions (f) and (g), construing the words in context, attempting to harmonize subdivisions (f) and (g) with section 11362.775 and with the purpose of California's medical marijuana [\*\*727] statutory program, and bearing in mind the intent of the electorate and the Legislature in enacting the CUA and the MMP, we conclude that HN21Go to this Headnote in the case.the phrases “further restrict the location or establishment” and “regulate the location or establishment” in section 11362.768, subdivisions (f) and (g) do not authorize a per se ban at the local level. The Legislature [\*\*\*24] decided in section 11362.775 to insulate medical marijuana collectives and cooperatives from nuisance prosecution “solely on the basis” that they engage in a dispensary function. To interpret the phrases “further restrict the location or establishment” and “regulate the location or establishment” to mean that local governments may impose a blanket nuisance prohibition against dispensaries would frustrate both the Legislature's intent to “[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects” and “[p]romote uniform and consistent application of the [CUA] among the counties within the state” and the electorate's intent to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes” and “encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.”

#### Predictability – ev in context

#### Aff flex – eliminating entire topic area only allows five affs without solvency advocates

#### Not effects

#### Functional limits

#### reasonability

# executive self restraint

### 2AC

#### This counterplan is a non-starter against this aff. Executive is already self-restrained. It is only a question of changing the law. That’s Daskal.

#### Perm do both

#### CP links to politics

MILES 1 – 15 – 13 editor at PolicyMic. He has worked for media outlets including the Associated Press and the Stars and Stripes [Chris Miles, An Obama Gun Control Executive Order Could Sink the President's Favorability, <http://www.policymic.com/articles/23296/an-obama-gun-control-executive-order-could-sink-the-president-s-favorability>]

Could Obama be wasting valuable political capital by issuing an executive order on gun control?

If Obama acts unilaterally on gun control, the event will likely fire-up conservatives and pro-gun advocates, calling out the president for failing to use the legislative process.

The conservative Drudge Report compared executive action to dictators Hitler and Stalin.

The backlash could be immense and could cost Obama leverage in future political battles, most notably the coming debt ceiling fight next month.

#### The counterplan is illegitimate because it fiats the object of the resolution – they change the position of the thing we are trying to restrict – the literature exists because of an unconstrained executive – most be a voting issue – setting a precedent early in the year prevents skewing the literature

#### Congressional restriction key to credibility and signal

Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11/2009, Targeted Killing in U.S. Counterterrorism Strategy and Law, http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

What Should Congress Do?

Does this analysis offer any practical policy prescriptions for Congress and the administration? The problem is not so much a need for new legislation to create new structures or new policies. The legislative category in which many instances of targeted killing might take place in the future already exists. The task for Congress and the administration, rather, is instead to preserve a category that is likely to be put under pressure in the future and, indeed, is already seen by many as a legal non-starter under international law.

Before addressing what Congress should do in this regard, we might ask from a strictly strategic political standpoint whether, given that the Obama Administration is committed to this policy anyway, whether it is politically prudent to draw public attention to the issue at all. Israeli officials might be threatened with legal action in Spain; but so far no important actor has shown an appetite for taking on the Obama Administration. Perhaps it is better to let sleeping political dogs lie.

The deeper issue here is not merely a strategic and political one about targeted killing and drones but goes to the very grave policy question of whether it is time to move beyond the careful ambiguity of the CIA’s authorizing statute in referring to covert uses of force under the doctrines of vital national interest and self-defense. Is it time to abandon strategic ambiguity with regards to the Fifth Function and assert the right to use force in self-defense and yet in “peacetime”—that is, outside of the specific context of an armed conflict within the meaning of international humanitarian law? Quite possibly, the strategic ambiguity, in a world in which secrecy is more and more difficult, and in the general fragmentation of voice and ownership of international law, has lost its raison d’etre. This is a larger question than the one undertaken here, but on a range of issues including covert action, interrogation techniques, detention policy, and others, a general approach of overt legislation that removes ambiguity is to be preferred.

The single most important role for Congress to play in addressing targeted killings, therefore, is the open, unapologetic, plain insistence that the American understanding of international law on this issue of self-defense is legitimate. The assertion, that is, that the United States sees its conduct as permissible for itself and for others. And it is the putting of congressional strength behind the official statements of the executive branch as the opinio juris of the United States, its authoritative view of what international law is on this subject. If this statement seems peculiar, that is because the task—as fundamental as it is—remains unfortunately poorly understood.

Yet if it is really a matter of political consensus between Left and Right that targeted killing is a tool of choice for the United States in confronting its non-state enemies, then this is an essential task for Congress to play in support of the Obama Administration as it seeks to speak with a single voice for the United States to the rest of the world. The Congress needs to backstop the administration in asserting to the rest of the world— including to its own judiciary—how the United States understands international law regarding targeted killing. And it needs to make an unapologetic assertion that its views, while not dispositive or binding on others, carry international authority to an extent that relatively few others do—even in our emerging multi-polar world. International law traditionally, after all, accepts that states with particular interests, power, and impact in the world, carry more weight in particular matters than other states. The American view of maritime law matters more than does landlocked Bolivia’s. American views on international security law, as the core global provider of security, matter more than do those of Argentina, Germany or, for that matter, NGOs or academic commentators. But it has to speak—and speak loudly—if it wishes to be heard. It is an enormously important instance of the need for the United States to re-take “ownership” of international law— not as its arbiter, nor as the superpower alone, but as a very powerful, very important, and very legitimate sovereign state.

Intellectually, continuing to squeeze all forms and instances of targeted killing by standoff platform under the law of IHL armed conflict is probably not the most analytically compelling way to proceed. It is certainly not a practical long-term approach. Not everyone who is an intuitively legitimate target from the standpoint of self-defense or vital national security, after all, will be already part of an armed conflict or combatant in the strict IHL sense. Requiring that we use such IHL concepts for a quite different category is likely to have the deleterious effect of deforming the laws of war, over the long term—starting, for example, with the idea of a “global war,” which is itself a certain deformation of the IHL concept of hostilities and armed conflict.

#### Perm do the counterplan

No one trusts the CP

Mark David Maxwell, Colonel, Judge Advocate with the U.S. Army, Winter 2012, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity under the Constitution that can frame and settle Presidential power regarding the enforcement of international norms is Congress. As the check on executive power, Congress must amend the AUMF to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. This would be the needed endorsement from Congress, the other political branch of government, to clarify the U.S. position on its use of force regarding targeted killing. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war.

Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74

The desire to feel safe is understandable. The consumers who buy SUVs are not buying them to be less safe. Likewise, the champions of targeted killings want the feeling of safety achieved by the elimination of those who would do the United States harm. But allowing the President to order targeted killing without congressional limits means the President can manipulate force in the name of national security without tethering it to the law advanced by international norms. The potential consequence of such unilateral executive action is that it gives other states, such as North Korea and Iran, the customary precedent to do the same. Targeted killing might be required in certain circumstances, but if the guidelines are debated and understood, the decision can be executed with the full faith of the people’s representative, Congress. When the decision is made without Congress, the result might make the United States feel safer, but the process eschews what gives a state its greatest safety: the rule of law.

Links flex

Links politics

Zero chance of Congressional follow-on AND CP links to politics

Kevin Drum, Mother Jones, 4/22/13, Maureen Dowd and Presidential Leverage, www.motherjones.com/kevin-drum/2013/04/maureen-dowd-and-presidential-leverage

Finally, there's the most obvious change of all: the decision by Republicans to stonewall every single Obama initiative from day one. By now, I assume that even conservative apologists have given up pretending that this isn't true. The evidence is overwhelming, and it's applied to practically every single thing Obama has done in the domestic sphere. The only question, ever, is whether Obama will get two or three Republican votes vs. three or four. If the latter, he has a chance to win. But those two or three extra votes don't depend on leverage. In fact, Obama's leverage is negative. The last thing any Republican can afford these days is to be viewed as caving in to Obama. That's a kiss of death with the party's base.

# Exec flex

### A2 terrorism

#### Aff key to solve terror – legitimacy and allied cooperation

Daskal, ’13 [Jennifer C. Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center. THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE “HOT” CONFLICT ZONE. University of Pennsylvania Law Review, Vol. 161, No. 5. April 2013. <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2049532>]

Second, while the proposed substantive and procedural safeguards are more stringent than those that are currently being employed, their implementation will lead to increased restraint and enhanced legitimacy, which in turn inure to the state. As the U.S. Counterinsurgency Manual explains, it is impossible and self-defeating to attempt to capture or kill every potential insurgent: “Dynamic insurgencies can replace losses quickly. Skillful counterinsurgents must thus cut off the sources of that recuperative power” by increasing their own legitimacy at the expense of the insurgent’s legitimacy. 215 The Counterinsurgency Manual further notes, “[E]xcessive use of force, unlawful detention . . . and punishment without trial” comprise “illegitimate actions” that are ultimately “self-defeating.”216 In this vein, the Manual advocates moving “from combat operations to law enforcement as quickly as feasible.”217 In other words, the high profile and controversial nature of killings outside conflict zones and detention without charge can work to the advantage of terrorist groups and to the detriment of the state. Self-imposed limits on the use of detention without charge and targeted killing can yield legitimacy and security benefits.218

Third, limiting the exercise of these authorities outside zones of active hostilities better accommodates the demands of European allies, upon whose support the United States relies. As Brennan has emphasized: “The convergence of our legal views with those of our international partners matters. The effectiveness of our counterterrorism activities depends on the assistance and cooperation of our allies—who, in ways public and private, take great risks to aid us in this fight.”219 By placing self-imposed limits on its actions outside the “hot” battlefield, the United States will be in a better position to participate in the development of an international consensus as to the rules that ought to apply.

### A2 exec power good

**No link – plan legitimizes existing policy – that’s Daskal**

**Syria Thumps**

**Orr 10/1**2013 Syria deal exposes Obama’s weakness by Judith Orr <http://www.socialistworker.co.uk/art/34531/Syria+deal+exposes+Obama%E2%80%99s+weakness>

A few weeks ago the US looked poised to launch a military attack on Syria. Now a deal on Syrian chemical weapons appears to be sealed—and a historic thaw in relations with Iran has been thrown in for good measure.

The Syria deal was struck in the United Nations (UN) Security Council. It says all production and equipment used to manufacture chemical weapons in Syria must be destroyed by 1 November. All existing chemical weapons are to be eliminated by the middle of next year.

All sides claim to be satisfied with this solution because it suits their own ends.

Barack Obama, facing problems at home, wants to spin this as a great achievement for him on the international stage. He is less keen to acknowledge what the deal exposes about US imperialism. First is that, whatever the rhetoric, the US was not confident or strong enough to launch a military attack on Syria.

Obama was loathe to commit to a military attack. He was forced to talk tough rather than risk appearing weak. Yet by pulling back and accepting the UN deal as a solution he has confirmed his weakness. The deal doesn’t even include the US’s preferred wording, which asserts the right to automatic “punitive measures” if Assad breaks any of the conditions.

Syria outweighs the link

David Rothkoph, CEO and editor at large of Foreign Policy, 8/3/13, The Gamble, www.foreignpolicy.com/articles/2013/08/31/the\_gamble?page=full

Obama has reversed decades of precedent regarding the nature of presidential war powers -and whether you prefer this change in the balance of power or not, **as a matter of quantifiable fact** he is transferring greater responsibility for U.S. foreign policy to a Congress that is more divided, more incapable of reasoned debate or action, and more dysfunctional than any in modern American history. Just wait for the Rand Paul filibuster or similar congressional gamesmanship.

The president's own action in Libya was undertaken without such approval. So, too, was his expansion of America's drone and cyber programs. Will future offensive actions require Congress to weigh in? How will Congress react if the president tries to pick and choose when this precedent should be applied? At best, the door is open to further acrimony. At worst, the paralysis of the U.S. Congress that has given us the current budget crisis and almost no meaningful recent legislation will soon be coming to a foreign policy decision near you. Consider that John Boehner was instantly more clear about setting the timing for any potential action against Syria with his statement that Congress will not reconvene before its scheduled September 9 return to Washington than anyone in the administration has been thus far.

Perhaps more importantly, what will future Congresses expect of future presidents? If Obama abides by this new approach for the next three years, will his successors **lack the ability to act quickly** and on their own? While past presidents have no doubt abused their War Powers authority to take action and ask for congressional approval within 60 days, we live in a volatile world; sometimes security requires swift action. The president still legally has that right, but Obama's decision may have done more -for better or worse -to **dial back the imperial presidency** than anything his predecessors or Congress have done for decades.

5. America's international standing will likely suffer.

As a consequence of all of the above, even if the president "wins" and persuades Congress to support his extremely limited action in Syria, the perception of America as a nimble, forceful actor on the world stage and that its president is a man whose word carries great weight is **likely to be diminished**. Again, like the shift or hate it, **foreign leaders can do the math.** Not only is post-Iraq, post-Afghanistan America less inclined to get involved anywhere, but when it comes to the use of U.S. military force (our one indisputable source of superpower strength) **we just became a whole lot less likely to act** or, in any event, act quickly. Again, good or bad, that is a stance that is likely to **figure into the calculus of those who once feared provoking the United States**.

A final consequence of this is that it seems ever more certain that Obama's foreign policy will be framed as so anti-interventionist and **focused on disengagement from world affairs** that **it will have major political consequences in 2016**. The dialectic has swung from the interventionism of Bush to the leaning away of Obama. Now, the question will be whether a centrist synthesis will emerge that restores the idea that the United States can have a muscular foreign policy that remains prudent, capable of action, and respects international laws and norms. Almost certainly, that is what President Obama would argue he seeks. But I suspect that others, including possibly his former secretary of state may well seek to define a different approach. Indeed, we may well see the divisions within the Democratic Party on national security emerge as key fault lines in the Clinton vs. Biden primary battles of 2016. And just imagine Clinton vs. Rand Paul in the general election.

Otherwise there’s no spillover

Jack Balkin, The Atlantic, 9/3/13, What Congressional Approval Won't Do: Trim Obama's Power or Make War Legal, www.theatlantic.com/politics/archive/2013/09/what-congressional-approval-wont-do-trim-obamas-power-or-make-war-legal/279298/

Wouldn’t congressional refusal make the United States look weak, as critics including Senator John McCain warn loudly? Hardly. The next dictator who acts rashly will face a different situation and a different calculus. The UN Security Council or NATO may feel differently about the need to act. There may be a new threat to American interests that lets Obama or the next president offer a different justification for acting. It just won’t matter very much what Obama said about red lines in the past. World leaders say provocative things all the time and then ignore them. Their motto is: That was then, and this is now.

If Congress turns him down, won’t Obama be undermined at home, as other critics claim? In what sense? It is hard to see how the Republicans could be less cooperative than they already are. And it’s not in the interest of Democrats to fault a president of their own party for acceding to what Congress wants instead of acting unilaterally.

Some commentators argue (or hope) that whatever happens, Obama’s request for military authorization will be an important precedent that will begin to restore the constitutional balance between the president and Congress in the area of war powers. Don’t bet on it. By asking for congressional authorization in this case, Obama has not ceded any authority that he ­or any other president ­has previously asserted in war powers.

It is naive to think that the next time a president wants to send forces abroad without congressional approval, he or she will be deterred by the fact that Barack Obama once sought congressional permission to bomb Syria. If a president can plausibly assert that any of the previous justifications apply -­including those offered in the Libya intervention -the case of Syria is easily distinguishable.

Perhaps more to the point, Congress still cannot go to the courts to stop the president, given existing legal precedents. Congress may respond by refusing to appropriate funds, but that is a remedy that they have always had -and have rarely had the political will to exercise.

The most important limit on presidential adventurism is political, not legal. It will turn less on the precedent of Syria than on whether the last adventure turned out well or badly.

### 2AC link

#### Plan legitimizes current policy – Daskal.

#### Only codification prevents Court evisceration of War Powers

Benjamin Wittes 8, Senior Fellow in Governance Studies at the Brookings Institution, co-founder and editor-in-chief of the Lawfare blog, member of the Hoover Institution’s Task Force on National Security Law, Law and the Long War: The Future of Justice in the Age of Terror, google books

What the Supreme Court has done is carve itself a seat at the table. It has intimated, without ever deciding, that a constitutional basis for its actions exists—in addition to the statutory bases on which it decided the cases—meaning that its authority over overseas detentions may be an inherent feature of judicial power, not a policy question on which the legislature and executive can work their will. Whether the votes exist on the court to go this extra step we will find out soon enough. But the specter of a vastly different judicial posture in this area now haunts the executive branch—one in which the justices assert an inherent authority to review executive detention and interrogation practices, divine rights to apply with that jurisdiction based on due process and vaguely worded international humanitarian law principles not clearly implemented in U.S. law, and allow their own power to follow the military’s anywhere in the world. Such a posture would constitute an earthquake in the relationships among all three branches of government, and the doctrinal seeds for it have all been planted. Whether they ultimately take root depends on factors extrinsic to the war on terror—particularly the future composition of a Supreme Court now closely divided on these questions. It will also pivot on the manner in which the political branches posture the legal foundations of the war in the future. Building a strong legislative architecture now may be the only way to avert a major expansion of judicial power over foreign policy and warfare.

### 2AC impact

Their evidence doesn’t say exec flex solves terrorism

#### The internal link is backwards. Mission failure is inevitable without Congressional deliberation

**Griffin 12** – Professor of Constitutional Law @ Tulane University [Stephen Griffin, “The Tragedy of the War Power: Presidential Decisionmaking from Truman to Obama,” APSA 2012 Annual Meeting Paper, July 15, 2012, Pg. http://ssrn.com/abstract=2107467

As a comparison of the relative ability of the executive and legislative branches to make speedy decisions, Hamilton’s argument is certainly plausible as far as it goes, but in the kind of government we have had since the Cold War began, it does not take us very far. Swift decisionmaking has little to do with a presidential decision to initiate the kind of war that has occupied us here. Wars involving the potential of thousands of American casualties, millions of foreign casualties, and the expenditure of hundreds of billions of dollars are usually not based on off-the-cuff decisions. Korea (especially taking into consideration the decision to cross the 38th parallel), Vietnam and the 1991 Gulf War were enormous undertakings and required layers of complex interagency decisionmaking, not a single swift move. Indeed, these considerations were part of what made it necessary in 1947 to establish the NSC to coordinate policy within the executive branch.

During the Cold War and after, the pre-Pearl Harbor constitutional order was identified with isolationism and no one thought a return to that policy after 1945 was realistic. But while it is relevant to ask if there was an alternative, there is no escaping the ineluctable reality that the post-1945 order was a tragedy waiting to happen. That order was inconsistent with the historical meaning of the Constitution and the original constitutional order remained relevant to making decisions for war. Whether the post-1945 order was necessary or not, it introduced deep tensions into the American system of governance.

The case studies presented above show that the interagency process taking place inside the executive branch was not an adequate substitute for the constitutionally mandated interbranch process. The inability of the executive branch to deliberate and make effective decisions on its own manifested itself in surprising ways. The executive branch has repeatedly failed to engage in effective war planning. With respect to Korea, Truman had to cope with the novelty of limited war and the fact that he would have been criticized by Republicans if he had ordered MacArthur to stop at the 38th parallel to restore the status quo ante. Nonetheless, it was his decision alone to unite the peninsula, a decision made essentially on the fly. In turn, that caused China to intervene. Korea then became a conflict of unanticipated scope that ended in stalemate and ruined Truman’s last years in office. True to his initial decision to intervene, Truman did not share responsibility with Congress and so Congress escaped both a valuable learning experience and the blame for the war.

In addition, the case studies show that there is considerable evidence that the executive branch has had problems determining on war aims. President George H. W. Bush studiously avoided consulting Congress during the crucial period of decision in fall 1990 when it became possible to contemplate turning Operation Desert Shield into Desert Storm. This meant that he did not have to resolve on a unified set of war aims that would have been a necessary part of convincing Congress to authorize the war. Like Truman, Bush waited until it was too late to convince Congress and the public that the war had a point beyond forcing Iraq out of Kuwait. Thus the war had no substantial implications for policy and could not even help Bush remain in office. Not submitting the war to a timely congressional decision that Bush would have respected turned out not only to be counterproductive in terms of policy, but contrary to Bush’s political interests.

Similarly, President George W. Bush failed to clarify what the war in Afghanistan was for beyond the removal of al Qaeda from Afghan territory. Partly as a consequence, the war became an endless struggle against the Taliban in both Afghanistan and Pakistan that is still ongoing as of 2012. It is striking that the executive, often represented by presidentialists as the branch that is most decisive and expert on matters of war, could consistently both fail to deliberate and fail to reach agreement on its goals in going to war. This suggests strongly that the pressures to shirk hard choices are too great to be overcome by one branch working alone.

As I have argued throughout this article, the post-1945 constitutional order tended to derange the policy process inside the executive branch, producing not a set of swift successful decisions, but rather a series of policy disasters. The formulation of policy on Vietnam in the Johnson administration, for example, showed serious deficiencies that have not been taken into account by contemporary presidentialists. In essence, the advisers in the White House and the different departments in the executive branch found it impossible to move beyond the narrow orbit established by the president. Rather, the president and the idiosyncratic process he establishes tends to dominate the undoubted policymaking expertise of the different departments. The lack of planning for the aftermath of the Iraq War, with the president and policymakers in the White House falling prey to all sorts of false assumptions, showed that nothing had changed since Vietnam.

I have also highlighted the costs of decisions for war on presidents. In doing so, I am not arguing that presidents who go to war suffer some sort of trauma. But there is good evidence that decisions for war are considerably different from other sorts of policy decisions. They can clearly impair presidential decision making, as was the case with Presidents Johnson and Nixon and probably both Bushes, father and son. There can be other, more subtle effects on policy. War can take up so much of the president’s time that other pressing concerns, including those related to foreign affairs, are crowded out. So President Johnson probably lost several chances to negotiate meaningful arms control agreements with the Soviet Union.217 This helped undermine the structure of détente in the 1970s by continuing the arms race. Preparing for and fighting the 1991 Gulf War so exhausted President Bush and his advisers that they had less capacity to make decisions with respect to the postwar environment in Iraq.218 This helped undermined the credibility of Bush’s decision not to depose Saddam Hussein. The 2003 Iraq War so consumed President George W. Bush and his advisers that they lost track of the situation in Afghanistan, leaving to President Obama the knotty task of sorting out the mess.

As the discussion in this article has thus demonstrated, the defects of the post-1945 constitutional order are manifest. Experience has shown that the executive branch is incapable of handling the deliberation necessary for decisions for war on its own. Perhaps this is what we should expect, given the continued tidal pull of the original constitutional order. Yet it is still striking how consistently poor executive decision making for war has been in the post-1945 period.

These defects create several distinct challenges for executive enthusiasts. For example, supporters of the presidentialist position often stress its unitary character. With a single person at the helm, the executive branch can act quickly to address foreign crises. We can now see more clearly that when the executive branch is not subject to oversight it is too easy either for presidents to dominate their advisers, thus suppressing valuable policy input (Johnson) or to so rearrange the White House policy process that an effective decisionmaking process becomes nearly impossible (Bush II). This supports the inference, which may come as a surprise to presidentialists, that a chief purpose of interbranch deliberation is to ensure that the executive branch is truly unitary and effective with respect to the all-important decision for war. Oversight also has the potential to counter the scenario in which the president totally dominates his advisers. Congressional hearings might give advisers a public forum in which they can finally get through to the president, although this is obviously a more difficult case.

Without oversight, policy in the executive branch can be unsound or even deranged. One pathway to policy disaster, seen in Vietnam, is that the various departments responsible for war are never forced to agree on a unified set of goals and what means are necessary to achieve those goals. Without strong external compulsion it is too easy for the different parts of the executive branch to fall to quarreling amongst themselves without any ability to resolve their differences. When the State Department, Defense Department and the CIA fail to agree, the NSC process has been insufficient to create a consensus on a proposed course of policy. While it is reasonable to assume that the nation requires a unified foreign policy, nothing in the internal architecture of the executive branch that guarantees unity. Again, this can strike us as surprising, because the executive branch is a hierarchy and we expect presidents to have the ability to lead. Experience shows, however, that leadership is usually expressed either through domination involving the suppression of dissident views or by the president being unable or unwilling to manage the many different parts of the executive branch together with their often strong-willed department heads. Striking the appropriate balance has been difficult for presidents who are, after all, politicians, not experienced managers.

Another pathway to disaster already mentioned is that it has proven difficult for the executive branch to determine war aims. Understandably the president and his advisers tend to respond to the exigencies of the moment, rather than concerning themselves with how a given military operation relates to the overall strategy of the U.S. in foreign affairs. The executive branch does not have any inherent ability to relate short-term responses to long-term goals. As we saw with the 1991 Gulf War, this inability to justify a war in terms of long-term goals can run contrary to the president’s own political interests.

It is not necessary to assume anything about the policy knowledge of individual members of Congress or the quality of congressional hearings to appreciate that a world in which the executive branch is required to justify itself publicly provides a significant incentive for the president to insist on a unified approach to policy. It is plausible that repeated iterations of oversight would build up congressional expertise in foreign policy and thus begin a meaningful cycle of accountability where each branch could learn over time from experience.

While there is a sense in which everyone accepts that oversight is a traditional function of Congress, it is noteworthy that there was no strong tradition of external review established in the early Cold War. The situation with respect to the CIA eventually became notorious, with a small group of senators handling oversight on a basis akin to a private club.219 But the situation with respect to foreign affairs in general was little better, with many hearings and exchanges held in executive session or off the books in private gatherings. While it is a mistake to think that the congressional leadership had no influence over the early Cold War administrations, the lack of public oversight meant that the proper incentives were never provided to executive branch agencies. As recounted by historian Robert Johnson, later in the Cold War the influence and prestige of the Senate Foreign Relations Committee waned in comparison with the growing power of the Armed Services Committee.220 This further undermined accountability and was emblematic of the dominant militarized approach to the Cold War.

While the executive branch was retooled to a certain extent for Cold War duty after 1947, nothing was done to the structure of Congress. Members of Congress assumed that the existing committee structure would suffice. Eventually the costs of this approach became apparent, at least with respect to intelligence policy. Part of the intelligence reforms of the 1970s was to establish committees to oversee the intelligence community. The subsequent difficulties with implementing this oversight have been well analyzed by a number of scholars and presidential commissions, including the 9/11 Commission. Some of the ignored proposals of the 9/11 Commission had to do with changes to congressional oversight of intelligence.221 What oversight there is has been rendered less effective by the use of term limits for service on the intelligence committees and the fact that budgetary authority is located elsewhere.222 As Amy Zegart concluded in her study of Congress, the intelligence community and 9/11:

It was no secret that this fragmented oversight system desperately needed fixing. Restructuring the Congress was recommended in seven of the twelve intelligence and terrorism studies between 1991 and 2001. Yet Congress never acted. In fact, Congress was the only government entity that failed to implement a single recommendation for reform during the decade—a record worse than either the CIA’s or the FBI’s.223

One purpose of the interbranch cycle of accountability is to test the executive branch’s claims with respect to war and foreign affairs. Of all the shibboleths of the Cold War, none have arguably done more harm than the idea that the executive branch’s undoubted expertise with respect to diplomacy is relevant to the expertise necessary for planning and running a war. The experience of presidential administrations in the post-1945 period is clear – there is no such thing as a civilian “expert” in making the policy choices and decisions necessary for war. Even if we accept the reasonable point that military leaders are expert in planning and running military operations, this sort of expertise is built up over many years of service and such experience was not available to any post-1945 president except Eisenhower. Consider that the substantial expertise FDR had acquired with respect to foreign policy by the time he was elected to a third term in 1940 is barred to any contemporary president by the 22nd Amendment. Further, cabinet officials and advisers are rarely drawn from a pool of those expert in war. As we drew away from the World War II generation, the Secretaries of State and Defense have usually been different sorts of careerists or politicians. While there is nothing inherently wrong with this, none of them were experts in making war decisions.224

In fact, there have been too few major wars for any civilian adviser to acquire the sort of experience necessary before true expertise is possible. At the same time, the major wars since 1945 show that effective consultation with Congress is pragmatically possible. Because American armies have been fighting far from home in the post-World War II period, considerable time has been required to transport them to the theatre of conflict and assemble the necessary enormous amount of supply material. Aside from true crises such as the 1962 Cuban missile crisis, there has always been plenty of time for interbranch deliberation over the decision to go to war.

This has not always been highlighted by presidents. In Korea, many weeks were required before the Inchon landing and break-out from the Pusan perimeter became possible. In Vietnam, it took two years, until 1967, for General Westmoreland to assemble the supply chain necessary to support the kind of military operations he envisioned in 1965.225 The build-up time required to simply provide an effective defense for Saudi Arabia (Operation Desert Shield) in the Gulf War was seventeen

weeks. More weeks were required to attain an offensive capability. Months were required after 9/11 before there were sufficient regular armed forces in Afghanistan and the same was true for the Iraq War. The fact of a crisis or apparent emergency that arguably requires a military response does not necessarily mean that there is little time for proper interbranch deliberation.

The war powers debate should occur on the terrain of a realistic appraisal of presidential success in making decisions for war and the possible contributions a true interbranch dialogue could make to effective decisionmaking. Such an appraisal is not found in recent works by executive enthusiasts. Eric Posner and Adrian Vermeule, for example, have recently provided a provocative theoretical grounding for executive enthusiasm. 226 They present a tightly woven argument that challenges what they describe as the “Madisonian” understanding of separation of powers. Their target, which they call “liberal legalism,” is the idea that the executive can be constrained primarily through legal means, including the constitutional law promulgated by judges as well as statutes passed by Congress.227 While their argument is wide-ranging, extending to administrative law and “global liberal legalism,” my comments here are directed at the parts of their argument most nearly relevant to war and foreign affairs.

There is arguably a subtle bias in the Posner and Vermeule analysis. They criticize the eighteenth-century “Madisonian” view of how an executive should be constrained. But why constrain the executive at all? Here Posner and Vermeule confine themselves to critiquing what might be called an eighteenth-century view of the dangers posed by the executive – chiefly the threat to civil liberties and the possibility, which they rightly discount, that the American term-limited president might turn into a tyrant.228 But they do not consider reasons for caution about the executive branch connected with our twentieth-century experience with war and foreign affairs. They believe one fatal problem with liberal legalism is that Congress can never catch up with emergencies. The nature of emergencies is that rules cannot be created in advance to handle them. By contrast, the executive is well suited to handling fast-changing situations – “in emergencies, only the executive can supply new policies and real-world action with sufficient speed to manage events.”229

While this is superficially plausible, it will have a strange ring to anyone who lived through Hurricane Katrina in 2005. Of course, this does not mean Congress somehow would have done better. Posner and Vermeule’s analysis is relentlessly comparative. The fact that the executive inevitably makes mistakes and fails sometimes does not show that liberal legalism is a workable alternative. What Posner and Vermeule do not consider is the enormous influence, amply demonstrated by the narrative I have presented, of the original constitutional order. Because Posner and Vermeule do not consider how constitutional orders work, they miss the significance of the original constitutional design. My argument has concerned war and foreign affairs. But it supports the general inference that the original design made it difficult for either branch to make good policy on its own. Sound policy with respect to war requires the branches to cooperate. While political parties have made such cooperation more difficult, parties are an example of how constitutional change tends to add to, rather than completely replacing, the original constitutional order.230 The discussion in this article has shown that policymaking in the executive branch becomes deranged without the oversight and input of the legislature. Posner and Vermeule have no way to account for this because they assume that executive branch is generally competent not only to execute the law but to make policy on its own. Strangely, they do not consider the generally poor record of the executive branch in war making in the post-1945 period. This period is littered not simply with mistakes, but with policy catastrophes that undermined the stability of the government as a whole.

It is also noteworthy that Posner and Vermeule focus on the executive branch without managing to say much about the person of the president or how the president runs the White House. The post-World War II experience showed that the president was incapable of managing the tasks of war without the substantial support of Congress. Briefly summarized, the biggest problem with the arguments of executive enthusiasts is that they reflect pre-Vietnam understandings of how the executive branch makes decisions in foreign policy. It is as if the substantial and closely documented historical scholarship on the Vietnam War has made no impression on legal scholars who study presidential power. These scholars continue to treat the executive branch as if it were a black box full of the “best and the brightest” – knowledgeable experts willing to make hard choices and swift, yet measured and effective decisions.231 History shows differently.

Conclusion

War is a unique kind of policy. Even “limited” wars tend to subordinate the rest of the nation’s foreign policy to their requirements rather than the reverse. This has meant that in starting any major military conflict, the president is almost literally betting the ranch. All the more reason to ensure that there is sufficient deliberation before going forward. In the restrained phrasing of political scientist James Kurth, the U.S. would have been better off had “an authentic democratic process” been used to approve wars since 1945.232 The question for the future is whether such a process is possible. Pg. 31-37

# IMMIGRAITON

### impact

**no escalation**

**Cárdenas 11** [Mauricio, senior fellow and director of the Latin America Initiative at the Brookings Institution, was cabinet minister during the Gaviria and Pastrana administrations in Colombia. Think Again Latin America, Foreign Policy, <http://www.foreignpolicy.com/articles/2011/03/17/think_again_latin_america?page=full>]

"Latin America is violent and dangerous." Yes, but not unstable. Latin American countries have among the world's highest rates of crime, murder, and kidnapping. Pockets of abnormal levels of violence have emerged in countries such as Colombia -- and more recently, in Mexico, Central America, and some large cities such as Caracas. With 140,000 homicides in 2010, it is understandable how Latin America got this reputation. Each of the countries in Central America's "Northern Triangle" (Guatemala, Honduras, and El Salvador) had more murders in 2010 than the entire European Union combined. Violence in Latin America is strongly related to poverty and inequality. When combined with the insatiable international appetite for the illegal drugs produced in the region, it's a noxious brew. As strongly argued by a number of prominent regional leaders -- including Brazil's former president, Fernando H. Cardoso, and Colombia's former president, Cesar Gaviria -- a strategy based on demand reduction, rather than supply, is the only way to reduce crime in Latin America. Although some fear the Mexican drug violence could spill over into the southern United States, Latin America poses little to no threat to international peace or stability. The major global security concerns today are the proliferation of nuclear weapons and terrorism. No country in the region is in possession of nuclear weapons -- nor has expressed an interest in having them. Latin American countries, on the whole, do not have much history of engaging in cross-border wars. Despite the recent tensions on the Venezuela-Colombia border, it should be pointed out that Venezuela has never taken part in an international armed conflict. Ethnic and religious conflicts are very uncommon in Latin America. Although the region has not been immune to radical jihadist attacks -- the 1994 attack on a Jewish Community Center in Buenos Aires, for instance -- they have been rare. Terrorist attacks on the civilian population have been limited to a large extent to the FARC organization in Colombia, a tactic which contributed in large part to the organization's loss of popular support.

Not reversrse causal – no u for latin American relations

Relations are compartmentalized

**No chain reactions. Prolif domino effects never materialize.**

**Alagappa ‘8** (Muthiah, Distinguished Senior Fellow – East-West Center, in “The Long Shadow: Nuclear Weapons and Security in 21st Century Asia, Ed. Muthiah Alagappa , p. 521-522)  
It will be useful at this juncture to address more directly the set of instability arguments advanced by certain policy makers and scholars: the domino effect of new nuclear weapon states, the probability of preventive action against new nuclear weapon states, and the compulsion of these states to use their small arsenals early for fear of losing them in a preventive or preemptive strike by a stronger nuclear adversary. On the domino effect, India's and Pakistan's nuclear weapon programs have not fueled new programs in South Asia or beyond. Iran's quest for nuclear weapons is not a reaction to the Indian or Pakistani programs. It is grounded in that country's security concerns about the United States and Tehran's regional aspirations. The North Korean test has evoked mixed reactions in Northeast Asia. Tokyo is certainly concerned; its reaction, though, has not been to initiate its own nuclear weapon program but to reaffirm and strengthen the American extended deterrence commitment to Japan. Even if the U.S. Japan security treaty were to weaken, it is not certain that Japan would embark on a nuclear weapon program. Likewise, South Korea has sought reaffirmation of the American extended deterrence commitment, but has firmly held to its nonnuclear posture. Without dramatic change in its political, economic, and security circumstances, South Korea is highly unlikely to embark on a covert (or overt) nuclear weapon program as it did in the 1970s. South Korea could still become a nuclear weapon state by inheriting the nuclear weapons of North Korea should the Kim Jong Il regime collapse. Whether it retains or gives up that capability will hinge on the security circumstances of a unified Korea. The North Korean nuclear test has not spurred Taiwan or Mongolia to develop nuclear weapon capability. The point is that each country's decision to embark on and sustain nuclear weapon programs is contingent on its particular security and other circumstances. **Though appealing, the domino theory is not predictive;** often it is employed to justify policy on the basis of alarmist predictions. The loss of South Vietnam, for example, did not lead to the predicted domino effect in Southeast Asia. In fact the so-called dominos became drivers of a vibrant Southeast Asia and brought about a fundamental transformation in that subregion (Lord 1993, 1996). **In the nuclear arena, the nuclear programs of China, India, and Pakistan were part of a security chain reaction, not mechanically falling dominos**. However, as observed earlier the Indian, Pakistani, and North Korean nuclear tests have thus far not had the domino effect predicted by alarmist analysts and policy makers. **Great caution should be exercised in accepting at face value the sensational predictions of individuals who have a vested interest in accentuating the dangers of nuclear proliferation**. Such analysts are now focused on the dangers of a nuclear Iran. A nuclear Iran may or may not have destabilizing effects. Such claims must be assessed on the basis of an objective reading of the drivers of national and regional security in Iran and the Middle East.

### 2ac – link turn / theory

#### ---Logical policy maker could do both – vote aff and pass the bill

#### --- Obama has no capital and winners win

THE HILL 3/20/13 [Amie Parnes and Justin Sink, Obama honeymoon may be over, http://thehill.com/homenews/administration/289179-obama-honeymoon-may-be-over]

The second-term honeymoon for President Obama is beginning to look like it is over.¶ Obama, who was riding high after his reelection win in November, has seen his poll numbers take a precipitous fall in recent weeks. ¶ A CNN poll released Tuesday showed Obama’s favorability rating underwater, with 47 percent approving and 50 percent disapproving of Obama’s handling of his job. ¶ Much of the president’s agenda is stuck, with climate change regulations delayed, immigration reform mired in committee negotiations and prospects for a grand bargain budget deal in limbo at best. ¶ On Tuesday, in a decision that underscored Obama’s depleting political capital, the White House watched as Senate Majority Leader Harry Reid (D-Nev.) announced only a watered-down version of Obama’s gun control proposals would be considered on the Senate floor. ¶ Republicans, sensing the sea change, are licking their chops. They point to the lack of movement on Obama’s signature issues, noting the contrast to the ambitious plans outlined in the early weeks of his second term.¶ “The president set very high goals for himself during his State of the Union, but the reality is very little of his agenda is actually moving,” Republican strategist Ron Bonjean said. “He allowed himself to get caught up in the legislative quicksand, [and] the cement is beginning to harden. “¶ History isn’t on Obama’s side. ¶ The last four presidents who won a second term all saw their poll numbers slide by mid-March with the exception of Bill Clinton, whose numbers improved in the four months following his reelection.¶ Clinton may have only been delaying the inevitable. His numbers dropped 5 points in April 1994. Even Ronald Reagan, buoyed by a dominant performance over Walter Mondale in the 1984 election, saw a double-digit erosion by this point in his second term.¶ Obama has yet to complete the first 100 days of his second term. But without a signature achievement since his reelection, he faces a crossroads that could define the remainder of his presidency. ¶ White House aides maintain that the 24-hour news cycle makes comparisons to previous presidents difficult.¶ “I think the nature of our politics now is different than Ronald Reagan’s honeymoon,” one senior administration official said. “The ebb and flow of politics doesn’t follow that model anymore.”¶ But observers say a drop in popularity is typical for second-termers.¶ “There may be some typical second-term honeymoon fade happening,” said Martin Sweet, an assistant visiting professor of political science at Northwestern University. “Honeymoon periods for incumbents are a bit more ephemeral.”¶ But like most other presidents, Sweet added, “Obama’s fate is tied to the economy.”¶ “Continuing economic progress would ultimately strengthen the president but if we are hit with a double-dip recession, then Obama’s numbers will crater,” he said.¶ The White House disputes any notion that Obama has lost any political capital in recent weeks.¶ “The president set out an ambitious agenda and he’s doing big things that are not easy, from immigration to gun control,” the senior administration official said. “Those are policies you can’t rack up easily, and no one here is naive about that.”¶ The White House is aware that the clock is ticking to push its hefty agenda, but the official added, “The clock is not ticking because of president’s political capital. The clock is ticking because there’s a timetable in achieving all of this. [Lawmakers] are not going to sign on because the president’s popular.” ¶ And administration officials believe they still have the leverage.¶ “There’s a decent amount of momentum behind all of this,” the official said. “It looks like immigration is closer [to passage] than ever before.”¶ Republican strategist Ken Lundberg argued that current budget fights “have cut short the president’s second-term honeymoon.” ¶ He said this could also hurt the president’s party, warning “the lower the president’s approval rating, the bigger the consequence for vulnerable Democrats.”¶ “Voters want solutions, and if they see the president headed down the wrong path, lockstep lawmakers will be punished in 2014,” he said.¶ Democratic strategist Chris Kofinis maintained that as long as he’s president, Obama still has the leverage.¶ “Immigration reform doesn’t get impacted by whether Obama’s poll numbers are 55 or 45,” Kofinis said. “Does it make certain things a little more difficult? Possibly. But while his numbers may have fallen, he’s still more likeable than the Republicans are on their best day.”¶ Kofinis said the real question for Obama is what kind of emphasis he’s going to place on his second term because the public will have less patience than they did during his first.¶ “The challenge in a second term is the American people look at certain things and have a higher tolerance in a second term,” he said. “When they know you’re not running for reelection again, they hold you to a higher standard.” ¶ Bonjean and other Republicans are aware that Obama could potentially bounce back from his latest slip in the polls and regain his footing.¶ “He has the opportunity to take minor legislative victories and blow them up into major accomplishments—meaning if he got something on gun control, he can tout that that was part of his agenda and the work isn’t over. If he were able to strike a grand bargain with Republicans, that’d be a legacy issue.”¶ Still, Bonjean added, “It’s not looking so good right now.”

#### ---Fiat solves the link – immediacy of the plan means no time to backlash.

#### ---Plan increases Inter-branch talks – builds agenda success

ANDRES & GRIFFIN 09 \*Vice Chair of Research for Dutko Worldwide, PhD in public policy analysis from Illinois \*\* partner Griffin Williams LLC, consulting firm. [Gary Andres & Patrick Griffin, “Understanding Presidential Relations with Congress,” from Rivals for Power, ed. James A. Thurber] page 117-118

Active Consultation

Presidents who put a strong emphasis on consultation with Congress, communicating often ~ Clinton team got high marks early on with the Democratic leadership in Congress for consulting and working in concert on a variety of measures during 1993. Their initiatives included proposals on education and environment, the Family and Medical Leave Act, and "motor voter" legislation (two initiatives that President Clinton's predecessor, George H. W. Bush, consistently opposed that now could pass under conditions of unified party government), as well as modest institutional reform proposals regarding campaign finance and lobbying registration. Their agenda also included legislative objectives that began to reposition Democrats as supporting a balanced budget while reducing the size of government and expanding efforts to fight crime.

As is often the case in unified government, the Democrats worked to ensure that their proposals passed without Republican support. The cornerstone of this early agenda was a $500 billion tax increase and spending cut package to reduce the deficit. The measure passed the House \by a margin of one, with all Republicans opposing it.

President George W. Bush's legislative strategy in the House followed a similar path over his first five years. In the Senate, however, Mr. Bush was also able to secure some Democratic support for most of his major initiatives like tax cuts, Medicare prescription drug legislation, and the No Child Left Behind education bill.

Holding their respective parties in line took Presidents Clinton and Bush many hours of consultation by inviting members to the White House and sending administration personnel to the Hill. Active consultation results in members of Congress believing that someone at the White House is listening and considering their point of view. Often just "hearing people out" and being attentive to their views go a long way toward strengthening and creating positive relations with Congress.

Barack Obama followed an almost identical path in the House of Representatives. While he worked hard trying to win Republican support through phone calls, meetings, and social gatherings, he failed to win any House Republican votes on his first major legislative initiative-an economic stimulus package. Although these presidents failed to produce a lot of bipartisan votes, they received strong initial marks for trying. At a minimum, these consultations began a dialogue, keeping the door open for future negotiations and bipartisanship in policy areas that did not produce as much polarization. A cynical interpretation of these gestures might be that they were never expected to produce a bipartisan result. The hope in making these gestures was to reinforce a bipartisan image of the president that was carefully forged in the campaign. The president's advisers may have concluded early on that true bipartisanship was necessary or doable for the president to be successful in the long run. What he needed was to get the legislation through the Congress while minimizing a negative impact on his brand.

#### --- Capital theory is stupid

Hirsh 2/7/13 (Michael, Chief correspondent for National Journal, Previously served as the senior editor and national economics correspondent for Newsweek, Overseas Press Club award for best magazine reporting from abroad in 2001 and for Newsweek’s coverage of the war on terror which also won a National Magazine Award, There’s No Such Thing as Political Capital, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207)

But the abrupt emergence of the immigration and gun control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is **kindergarten simple**: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “**Winning wins**.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote.

Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully **quantifies or even defines it**. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a **bandwagon effect**.”

#### ---Vote no – solves the link – the 1ac proposed the plan

#### ---No spillover claim – losing capital on one issue won’t hurt votes in others. They don’t have a vote count OR vote switch card

#### ---Plan divides the GOP

DICKERSON 13 Chief Political Correspondent at the Slate, Political Director of CBS News, Covered Politics for Time Magazine for 12 Years, Previous White House Correspondent [John, , Go for the Throat!, 1/18/13 http://tinyurl.com/b7zvv4d]

On Monday, President Obama will preside over the grand reopening of his administration. It would be altogether fitting if he stepped to the microphone, looked down the mall, and let out a sigh: so many people expecting so much from a government that appears capable of so little. A second inaugural suggests new beginnings, but this one is being bookended by dead-end debates. Gridlock over the fiscal cliff preceded it and gridlock over the debt limit, sequester, and budget will follow. After the election, the same people are in power in all the branches of government and they don't get along. There's no indication that the president's clashes with House Republicans will end soon.

Inaugural speeches are supposed to be huge and stirring. Presidents haul our heroes onstage, from George Washington to Martin Luther King Jr. George W. Bush brought the Liberty Bell. They use history to make greatness and achievements seem like something you can just take down from the shelf. Americans are not stuck in the rut of the day.

But this might be too much for Obama’s second inaugural address: After the last four years, how do you call the nation and its elected representatives to common action while standing on the steps of a building where collective action goes to die? That **bipartisan** bag of tricks has been tried and it didn’t work. People don’t believe it. Congress' approval rating is 14 percent, the lowest in history. In a December Gallup poll, 77 percent of those asked said the way Washington works is doing “serious harm” to the country.

The challenge for President Obama’s speech is the challenge of his second term: how to be great when the **environment stinks**. Enhancing the president’s legacy requires something more than simply the clever application of predictable stratagems. Washington’s **partisan rancor**, the size of the problems facing government, and the limited amount of **time** before Obama is a lame duck all point to a single conclusion: The president who came into office speaking in lofty terms about **bipartisanship** and cooperation can only cement his legacy if he **destroys the GOP**. If he wants to transform American politics, he must **go for the throat**.

President Obama could, of course, resign himself to tending to the achievements of his first term. He'd make sure health care reform is implemented, nurse the economy back to health, and put the military on a new footing after two wars. But he's more ambitious than that. He ran for president as a one-term senator with no executive experience. In his first term, he pushed for the biggest overhaul of health care possible because, as he told his aides, he wanted to make history. He may already have made it. There's no question that he is already a president of consequence. But there's no sign he's content to ride out the second half of the game in the Barcalounger. He is approaching gun control, climate change, and immigration with wide and excited eyes. He's not going for caretaker.

How should the president proceed then, if he wants to be bold? The Barack Obama of the first administration might have approached the task by finding some Republicans to deal with and then start agreeing to some of their demands in hope that he would win some of their votes. It's the traditional approach. Perhaps he could add a good deal more schmoozing with lawmakers, too.

That's the old way. **He has abandoned that**. He doesn't think it will work and he doesn't have the time. As Obama explained in his last press conference, he thinks the Republicans are dead set on opposing him. They cannot be unchained by schmoozing. Even if Obama were wrong about Republican intransigence, other constraints will limit the chance for cooperation. Republican lawmakers worried about primary challenges in 2014 are not going to be willing partners. He probably has at most 18 months before people start dropping the lame-duck label in close proximity to his name.

Obama’s **only remaining option is to pulverize**. Whether he succeeds in passing legislation or not, given his ambitions, his goal should be to delegitimize his opponents. Through a series of **clarifying fights over controversial issues**, he can force Republicans to either side with their coalition's most extreme elements or cause a rift in the party that will leave it, at least temporarily, in disarray.

This theory of political transformation rests on the weaponization (and slight bastardization) of the work by Yale political scientist Stephen Skowronek. Skowronek has written extensively about what distinguishes transformational presidents from caretaker presidents. In order for a president to be transformational, the old order has to fall as the orthodoxies that kept it in power exhaust themselves. Obama's gambit in 2009 was to build a new post-partisan consensus. That didn't work, but by exploiting the weaknesses of today’s Republican Party, Obama has an opportunity to hasten the demise of the old order by increasing the political cost of having the GOP coalition defined by Second Amendment absolutists, climate science deniers, supporters of “self-deportation” and the pure no-tax wing.

### 2AC – immigration

### 2ac immigration

#### Won’t pass – and Obama irrelevant

STILES 10 – 21 – 13 National Review [Andrew Stiles, Conservatives warn House leaders against the Senate bill on comprehensive immigration reform. , <http://www.nationalreview.com/article/361716/dug-against-gang-eight-andrew-stiles>]

Still, there are valid reasons to think that immigration reform is doomed. Following the political debacle of the past few weeks, which culminated in Boehner’s violating the so-called Hastert rule and allowing a Senate-brokered budget agreement to pass with primarily Democratic support, some doubt that he will have enough political capital to take any action on immigration reform that could rile his conservative flank. There is also no deadline to force Boehner’s hand. “It’s not like blocking immigration reform prevents a government shutdown or default on the debt,” says a conservative aide. “I don’t see how Boehner would have the political leverage to force it through.”

The recent budget talks have also, to the extent that it is even possible, increased House Republicans’ dislike and distrust of President Obama. Representative Raul Labrador (R., Idaho), a prominent supporter of immigration reform and a member of the (now disbanded) House version of the Gang of Eight, has said “it would be crazy” for House Republicans to negotiate with Obama on immigration reform, because the president would never do so in good faith.

“He’s trying to destroy the Republican Party . . . and I think that anything that we do right now with this president on immigration will be with that same goal in mind, which is to destroy the Republican party, and not to get good policies,” Labrador said last week during a meeting with conservative lawmakers hosted by the Heritage Foundation.

One thing is certain: John Boehner’s job won’t be getting any easier anytime soon.

#### Winners win on immigration

DAILY CALLER 10 – 21 – 13 US Chamber of Commerce pleads for Obama’s help to pass immigration boost, <http://dailycaller.com/2013/10/21/u-s-chamber-of-commerce-pleads-for-obamas-help-to-pass-immigration-boost/>

Obama could build trust “by getting involved and helping us come to a satisfactory and progressive — meaning moving forward — set of solutions on tax and spending, and on entitlements,” Donohue said.

“He will not get there if he doesn’t do what he says he’ll do — get involved and negotiate,” Donohue said.

However, White House press secretary jay Carney strongly hinted last week that the president would not play a leadership role in the budget talks. (Related: Obama WALKS AWAY from new budget talks, setting stage for next shutdown showdown)

“The president will be as involved as he and members of the Congress believe to be useful,” he said.

“Our view is that [in 2013] the House passed a budget, the Senate passed a budget; that’s how the process is supposed to work,” Carney said. “The president has already demonstrated a level of seriousness through the budget he put forward.”

“Flacks do [say] that, don’t they?” Donohue responded when The Daily Caller cited Carney’s comments.

“History is very clear, the most successful administrations… are those that get intimately involved in leading and working with the other leaders in town,” he said.

#### No pc for immigration

THE HILL 10 – 18 – 13 Obama’s hollow debt victory, <http://thehill.com/homenews/administration/329219-obamas-hollow-debt-victory>

Republican strategist Ron Bonjean said he didn’t expect relations between Obama and Republicans to improve.

“No one has political capital at this point to really accomplish major legislative initiatives by the end of this year,” Bonjean said. “It’s highly unlikely that any comprehensive immigration reform bill would be able to move through the House after such a bruising fight over the shutdown and the debt ceiling.”

The former senior administration official seemed to agree, saying any hope for cooperation on a comprehensive immigration bill seems unlikely.

“No way,” the former official said. “I don’t see how it happens.”

#### Obama irrelevant – just Boehner

FRUCHTNICHT 10 – 20 – 13 Opposing Views Columnist [Sarah Rae Fruchtnicht, Rubio: House GOP ‘Deserves’ Not To Negotiate On Immigration After Shutdown, <http://www.opposingviews.com/i/politics/rubio-house-gop-deserves-not-negotiate-immigration-after-shutdown>]

Rubio said the breach of trust that occurred when Obama undermined the efforts against Obamacare is reasonably making the GOP in the House unwilling to negotiate immigration reform with the president.

“You have a government and a White House … and what they say is ‘You’re going to pass an immigration law that has both some legalization aspect and some enforcement,’” Rubio said. “What’s not to say that this White House won’t come back and cancel the enforcement aspects of it?”

Rubio said the same House Republicans who used brinkmanship might have the best strategy for immigration reform.

“This notion that they’re going to get into a room and negotiate a deal with the president on immigration is much more difficult for two reasons,” he explained. “Number one, because the way the president has behaved towards his opponents over the last three weeks as well as the White House and the things that they’ve said and done. And number two, because what I have outlined to you. So, I certainly think that immigration reform is a lot harder to achieve today than it was just three weeks ago because of what’s happened here.”

“Again, I think the House deserves the time and space to have its own ideas on how they want to move forward on this, let’s see what they come up with,” he continued. “It could very well be much better than what than the Senate has done so far.”

#### PLAN divides the GOP –

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#### Dividing the GOP key

EPSTEIN 10 – 17 – 13 Politico [Obama’s latest push features a familiar strategy, <http://www.politico.com/story/2013/10/barack-obama-latest-push-features-familiar-strategy-98512.html>]

President Barack Obama made his plans for his newly won political capital official — he’s going to hammer House Republicans on immigration.

And it’s evident from his public and private statements that Obama’s latest immigration push is, in at least one respect, similar to his fiscal showdown strategy: yet again, the goal is to boost public pressure on House Republican leadership to call a vote on a Senate-passed measure.

“The majority of Americans think this is the right thing to do,” Obama said Thursday at the White House. “And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”

And yet Obama spent the bulk of his 20-minute address taking whack after whack at the same House Republicans he’ll need to pass that agenda, culminating in a jab at the GOP over the results of the 2012 election — and a dare to do better next time.

“You don’t like a particular policy or a particular president? Then argue for your position,” Obama said. “Go out there and win an election. Push to change it. But don’t break it. Don’t break what our predecessors spent over two centuries building. That’s not being faithful to what this country’s about.”

Before the shutdown, the White House had planned a major immigration push for the first week in October. But with the shutdown and looming debt default dominating the discussion during the last month, immigration reform received little attention on the Hill.

Immigration reform allies, including Obama’s political arm, Organizing for Action, conducted a series of events for the weekend of Oct. 5, most of which received little attention in Washington due to the the shutdown drama. But activists remained engaged, with Dream Act supporters staging a march up Constitution Avenue, past the Capitol to the Supreme Court Tuesday, to little notice of the Congress inside.

Obama first personally signaled his intention to re-emerge in the immigration debate during an interview Tuesday with the Los Angeles Univision affiliate, conducted four hours before his meeting that day with House Democrats.

Speaking of the week’s fiscal landmines, Obama said: “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform.”

When he met that afternoon in the Oval Office with the House Democratic leadership, Obama said that he planned to be personally engaged in selling the reform package he first introduced in a Las Vegas speech in January.

Still, during that meeting, Obama knew so little about immigration reform’s status in the House that he had to ask Rep. Xavier Becerra (D-Calif.) how many members of his own party would back a comprehensive reform bill, according to a senior Democrat who attended.

The White House doesn’t have plans yet for Obama to participate in any new immigration reform events or rallies — that sort of advance work has been hamstrung by the 16-day government shutdown.

But the president emerged on Thursday to tout a “broad coalition across America” that supports immigration reform. He also invited House Republicans to add their input specifically to the Senate bill — an approach diametrically different than the House GOP’s announced strategy of breaking the reform into several smaller bills.

White House press secretary Jay Carney echoed Obama’s remarks Thursday, again using for the same language on immigration the White House used to press Republicans on the budget during the shutdown standoff: the claim that there are enough votes in the House to pass the Senate’s bill now, if only it could come to a vote.

“When it comes to immigration reform … we’re confident that if that bill that passed the Senate were put on the floor of the House today, it would win a majority of the House,” Carney said. “And I think that it would win significant Republican votes.”

Before the resolution of the shutdown and default standoff, Carney was more circumspect about the prospect of immigration reform passing the House. Earlier in the week, Carney wouldn’t venture a guess about whether the White House believes a new immigration push from the president would actually work.

“Congress is a difficult institution to make predictions about,” Carney said Wednesday. “Our view is simply that it’s the right thing to do, and we’re going to push for it.”

The earlier assessment reflects the tough reality: over on Capitol Hill, the Republicans forced to accept the fiscal deal on Obama’s terms are hardly in the mood to give the president another political victory.

Speaker John Boehner’s spokesman said House Republicans will stick with a piecemeal approach to immigration reform.

“The speaker remains committed to a common sense, step-by-step approach that ensures we get immigration reform done right,” spokesman Brendan Buck said Thursday. “That’s why the committees of the House continue to work on this important issue.”

Rep. Raul Labrador (R-Idaho), who quit the House immigration group, said there’s no chance of a bicameral reform bill getting to Obama.

“I think it would be crazy for the House Republican leadership to enter into negotiations with him on immigration,” Labrador said Wednesday. “I think what he has done over the last two and half weeks, he’s trying to destroy the Republican Party and I think that anything we negotiate right now with the president on immigration will be with that same goal in mind, which is to destroy the Republican Party and not to get good policies.”

And Sen. Jeff Sessions (R-Ala.) called it “unthinkable” that Obama would press his immigration push so soon after the fiscal crises.

“All over the country, Americans are struggling to find work,” Sessions said. “It is unthinkable that the president would continue to lobby Congress on behalf of special interests in order to double the flow of immigrant workers into the country, as bills in both the House and Senate propose.”

It is exactly that sort of say-no attitude among Republicans that the White House has signaled it will highlight in its immigration push.

Obama himself said there won’t always be agreements, but in his repeated praise for “reasonable Republicans,” he made clear that he will continue to point to conservative and tea party-affiliated Republicans as the impediment to the progress he seeks — and pushing GOP lawmakers on this issue, as he did in the recent fiscal fights, to sign on to some version of the Senate’s latest compromise.

“We all know that we have divided government right now,” Obama said Thursday. “There’s a lot of noise out there, and the pressure from the extremes affect how a lot of members of Congress see the day-to-day work that’s supposed to be done here.”

### NO PC – 2ac

#### Obama has zero credibility – can’t use his capital

KOFFLER 10 – 11 – 13 editor of White House Dossier, Covered the WH as a reporter for CongressDaily and Roll Call [Keith Koffler, Obama’s crisis of credibility, <http://www.politico.com/story/2013/10/obamas-crisis-of-credibility-98153.html>]

President Barack Obama is like a novice flier thrust into the cockpit of a 747. He’s pushing buttons, flipping switches and radioing air traffic control, but nothing’s happening. The plane is just slowly descending on its own, and while it may or may not crash, it at least doesn’t appear to be headed to any particularly useful destination.

Obama’s ineffectiveness, always a hallmark of his presidency, has reached a new cruising altitude this year. Not even a year into his second term, he looks like a lame duck and quacks like a lame duck. You guessed it — he’s a lame duck.

On the world stage, despite Obama’s exertions, Iran’s centrifuges are still spinning, the Israelis and Palestinians remain far apart, Bashar Assad is still in power, the Taliban are gaining strength and Iraq is gripped by renewed violence.

At home, none of Obama’s agenda has passed this year. Republicans aren’t bowing to him in the battle of the budget, and much of the GOP seems uninterested in House Speaker John Boehner’s vision of some new grand bargain with the president.

Obama has something worse on his hands than being hated. All presidents get hated. But Obama is being ignored. And that’s because he has no credibility.

A president enters office having earned a certain stock of political capital just for getting elected. He then spends it down, moving his agenda forward, until he collects a fresh supply by getting reelected.

But political capital is only the intangible substrate that gives a president his might. His presidency must also be nourished by credibility — a sense he can be trusted, relied upon and feared — to make things happen.

A president enters office with a measure of credibility. After all, he seemed at least trustworthy enough to get elected. But unlike political **capital**, credibility must be built in office. Otherwise, it is squandered.

Obama has used every credibility-busting method available to eviscerate any sense that he can be counted on. He’s dissimulated, proven his unreliability, ruled arbitrarily and turned the White House into a Chicago-style political boiler room. His credibility has been sapped with his political opponents, a public that thinks him incompetent, our allies, who don’t trust him, and, even worse, our enemies, who don’t fear him.

There’s not going to be any grand bargain on the budget this year. Republicans are not only miles from the president ideologically — they’re not going to trust him with holding up his end of the bargain. If they had a president they thought they could do business with, their spines might be weakening more quickly in the current budget impasse and they would be looking for an exit.

There are the unkept promises like closing Guantanamo, halving the deficit during his first term and bringing unemployment down below 8 percent as a result of the 2009 stimulus. Then there are the moments when one has to conclude that Obama could not have possibly been telling the truth.

His contention when selling Obamacare that people would be able to keep their insurance and their doctors is not simply “turning out” to be wrong. That some people would lose either their doctors or their insurance is an obvious result of a properly functioning Affordable Care Act. He could not possibly have known so little about his signature program that he didn’t foresee such a possibility.

Last year, the independent Politifact.com rated Obama’s vow to pass health care reform that reduces premiums for the average family by $2,500 a “promise broken,” suggesting that premiums might in fact go up slightly. Obama’s claim that Obamacare reduces the deficit is also probably wrong. In an article published Wednesday, Charles Blahous, the Republican-appointed Medicare Public Trustee, notes that he has estimated Obamacare would add $340 billion to federal deficits in its first decade, and that recent evidence suggests the tally is likely to be higher. But certainly Obama has performed a sleight of hand, since budget savings used to “pay for” Obamacare can no longer be used to subtract from the deficit.

Meanwhile, Republicans can’t trust the president to abide by any deal he might sign since he has a record of picking and choosing which laws to enforce. He stopped enforcing the Defense of Marriage Act before it was declared unconstitutional. Having not gotten the “Dream Act” out of Congress, he wrote it himself, choosing not to send certain children of illegal immigrants back to their native countries. He attacked Libya without the consent of Congress.

Sapping his credibility further is willingness to harbor and express vicious contempt for his ideological opposites, whom he variously describes as terrorists, “extremists,” and “enemies.” Behaving like a Chicago ward boss is not going to advance his agenda very far on Capitol Hill.

Obama’s failure to enforce his “red line” with Syria on the use of chemical weapons and punt the matter to a dubious weapons destruction process is only the latest example of his inconstancy. The president failed to maintain a needed troop presence in Iraq, resulting in disastrous and sustained violence that is wasting our efforts there; he tarried in supporting a potential Iranian uprising; he dumped a stalwart U.S. ally, Egypt, into the hands of the Muslim Brotherhood; he said Assad had to go, and then Assad didn’t go; he broke his promise to Hispanic voters to move immigration reform during his first term; and he dropped an additional $400 million in revenue on the table to blow up a potentially massive 2011 budget bargain with Republicans.

The only thing Obama can truly be counted on is to make his tee time on Saturdays, though the government shutdown has temporarily cramped his golf game.

During his first year in office, Ronald Reagan crushed an illegal strike by air traffic controllers by firing them all, defying charges that he was a union-busting thug and that planes would soon be dropping out of the sky. It was a moment that convinced observers at home and abroad that Reagan was not to be taken lightly, that he was a serious man of his word, and that he was to be respected and even feared. And so he got things done.

Obama has never shown similar fortitude to the world for the simple reason that he lacks it. Obama is not to be feared, or even trusted. And that’s a fatal flaw in a president.

### Thumpers – 2ac

#### Multiple fights Thump the Link

WSJ 10 – 17 – 13 [Obama's Agenda Faces Rocky Road, http://online.wsj.com/news/articles/SB10001424052702303680404579141472200495820]

By most measures, President Barack Obama came out on top in the showdown with congressional Republicans. He beat back efforts to dismantle his health-care overhaul and hit upon a strategy that confounded Republicans: refusing to negotiate with lawmakers who wanted to roll back the 2010 law as the price for reopening the government.

Yet it is far from certain Mr. Obama can exploit these tactical gains in coming months. In his remarks Thursday from the State Dining Room, he said he wanted to pass an immigration overhaul, a farm bill and reach a budget agreement that cuts the deficit and spurs economic growth. Not on the list were the more ambitious plans he laid out in his State of the Union speech in February: raising the minimum wage, expanding access to pre-school education and launching a sweeping program to upgrade the nation's roads and bridges.

Those efforts require bipartisan consensus that may be even more elusive amid the ill will carried over from the budget

fight. Even Republicans who voted with the president believe Mr. Obama struck a hard-line posture that makes future collaboration difficult.

"A lot of us are resentful that he didn't negotiate as hard as we think he could have or should have," said Sen. John McCain (R., Ariz.) in an interview. "Let me put it this way: He didn't do himself any good."

Refusing to negotiate with GOP adversaries proved a winning strategy in this instance, and Republicans who saw Mr. Obama hold firm may have gotten the message that he won't cave when it is time to raise the debt ceiling again in February.

Rep. Peter King (R., N.Y.), who opposed GOP efforts to strip funding from the health law, said Republicans need to reduce their expectations of what can be achieved in a time of divided government. Shutting down the government and other "D-Day-type victories" shouldn't be the goal so much as revising the nation's tax code and reducing the debt, Mr. King said.

Some Democrats, meanwhile, believe Mr. Obama must be a more active player in looming fights. Sen. Dianne Feinstein (D., Calif.) said in an interview Mr. Obama "stepped back" in part because he felt "burned" by the grinding budget fights that have played out over the past three years.

"I hope that changes, because you do need presidential leadership on these" issues, she said. In "three or four months, we could be back in the same place, and we can't let ourselves be back in the same place," she said.

Mr. Obama suggested Thursday he was willing to negotiate on a range of issues, consistent with his message during the budget fight that he was prepared to bargain with lawmakers once the government was reopened and the debt ceiling raised.

Mr. Obama may find some consolation in the House vote Wednesday. In the end, 87 House Republicans voted the president's way on the debt bill. More than 17% of them hailed from districts Mr. Obama carried in 2012, suggesting a potential way forward for a president eager to assemble a centrist coalition.

Yet as much as he wants to shift the focus to immigration and the farm bill, Mr. Obama will have trouble pulling it off. His administration is under pressure to fix the operational problems that have bedeviled the new health-care exchanges.

The next set of fiscal deadlines, and worries about the next round of the across-the-board spending cuts, scheduled to take effect in mid-January, are likely to overshadow other efforts. That leaves lawmakers with only a narrow window of time to tackle any remotely complex legislation before the 2014 midterm dynamics overtake Washington.

Messy internal GOP politics over the farm bill could also complicate lawmakers' efforts to reconcile the different measures passed by the House and Senate.

As for immigration, House Republicans have said they plan to consider piecemeal immigration bills, but so far not one has reached the House floor.

Rep. Raul Labrador (R., Idaho), a conservative who has urged Republicans to tackle immigration changes, said Wednesday the budget fight would make it harder for GOP leaders to negotiate with the president on immigration.

### Winners-Win – 2ac

#### Obama needs to generate momentum post budget fights

MILBANK 10 – 20 – 13 Washington Post Writer [Dana Milbank, No more leading from behind, http://normantranscript.com/opinion/x1442589297/No-more-leading-from-behind]

Let us hear no more about President Obama leading from behind.

Since a White House adviser uttered that phrase to The New Yorker's Ryan Lizza in 2011 to describe Obama's leadership in Libya, "leading from behind" has become a favorite refrain of Republicans trying to portray Obama as weak.

Rep. Darrell Issa (California) detected "a policy of leading from behind, of indecision" in Syria. Sen. Ted Cruz (Texas) said Obama's "strategy of leading from behind meant (Moammar) Gaddafi's weapons stockpiles went unsecured." Sen. Dan Coats (Indiana) said Obama's insistence on higher taxes was more evidence that "the president continues to lead from behind." Rep. Doc Hastings (Washington) even said "the American people have been waiting for the Obama administration to stop leading from behind" — and to hurry up approval of the Keystone XL pipeline.

But the last use of the phrase I could find in the congressional record was on Oct. 2, at the start of the shutdown, when. Sen. John Barrasso (Wyoming) said Obama had been "once again attempting to lead from behind in a crisis."

They aren't saying that now.

Obama got out in front of the shutdown and debt-ceiling standoff. He took a firm position -- no negotiating -- and he made his case to the country vigorously and repeatedly. Republicans miscalculated, assuming Obama would once again give in. The result was the sort of decisive victory rarely seen in Washington skirmishes.

On Wednesday, Republicans surrendered. They opened the government and extended the debt limit with virtually no conditions. On Thursday, Obama rubbed their noses in it.

"You don't like a particular policy or a particular president? Then argue for your position. Go out there and win an election," Obama taunted them from the State Dining Room. "Push to change it, but don't break it. Don't break what our predecessors spent over two centuries building."

Obama said "there are no winners" after the two-week standoff, but his opponents, particularly his tea-party foes, clearly lost the most; seven in 10 Americans thought Republicans put party ahead of country. These "extremes" who "don't like the word 'compromise'" were the obvious target of Obama's demand that we all "stop focusing on the lobbyists and the bloggers and the talking heads on radio and the professional activists who profit from conflict." (He did not mention newspaper columnists, so you are free to continue reading.)

The gloating was a bit unseemly, but the president is entitled to savor a victory lap. The more important thing is that Obama maintain the forceful leadership that won him the budget and debt fights. In that sense, the rest of Obama's speech had some worrisome indications he was returning to his familiar position in the rear.

The agreement ending the shutdown requires Congress to come up with a budget by Dec. 13. It's a chance — perhaps Obama's last chance — to tackle big issues such as tax reform and restructuring Medicare. The relative strength he gained over congressional Republicans during the shutdown left him in a dominant negotiating position. If he doesn't use his power now to push through more of his agenda, he'll lose his advantage. George W. Bush adviser Karl Rove called it the "perishability" of political capital.

But instead of being forceful, Obama was vague. He spoke abstractly about "the long-term obligations that we have around things like Medicare and Social Security." He was similarly elliptical in saying he wants "a budget that cuts out the things that we don't need, closes corporate tax loopholes that don't help create jobs, and frees up resources for the things that do help us grow, like education and infrastructure and research."

Laudable ideas all — but timidity and ambiguity in the past have not worked for Obama. The way to break down a wall of Republican opposition is to do what he did the last two weeks: stake out a clear position and stick to it. A plan for a tax-code overhaul? A Democratic solution to Medicare's woes? As in the budget and debt fights, the policy is less important than the president's ability to frame a simple message and repeat it with mind-numbing regularity.

If there's going to be a big budget deal, the president eventually will have to compromise, perhaps even allowing some changes to his beloved Obamacare, which he didn't mention while on his victory lap Thursday. Even then, forceful leadership may not be enough to prevail.

But he has a much better chance if he remains out in front. Otherwise, he'll soon be knocked back on his behind.