**1**

Restrictions on war powers create areas where the President can NOT act

**Fisher 12** (Louis, Scholar in Residence at The Constitution Project; served for four decades at the Library of Congress, as Senior Specialist, Congressional Research Service, “Basic Principles of the War Power,” 2012 Journal of National Security Law & Policy 5 J. Nat'l Security L. & Pol'y 319)

Article II designates the President as Commander in Chief, but that title does not carry with it an independent authority to initiate war or act free of legislative control. Article II provides that the President "shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." Congress, not the President, does the calling. Article I grants Congress the power to provide "for calling forth the Militia to execute the laws of the Union, suppress Insurrections, and repel invasions." Presidential use of the militia depends on policy enacted by Congress.

The Commander in Chief Clause is sometimes interpreted as an exclusive, plenary power of the President, free of statutory checks. It is not. Instead, it offers several protections for republican, constitutional government. Importantly, it preserves civilian supremacy over the military. The individual leading the armed forces is an elected civilian, not a general or admiral. Attorney General Edward Bates in 1861 concluded that the President is Commander in Chief not because he is "skilled in the art of war and qualified to marshal a host in the field of battle." He possesses that title for a different reason. Whatever military officer leads U.S. forces against an enemy, "he is subject to the orders of the civil magistrate, and he and his army are always "subordinate to the civil power.'" n23 Congress is an essential part of that civil power.

The Framers understood that the President may "repel sudden attacks," especially when Congress is out of session and unable to assemble quickly, but the power to take defensive actions does not permit the President to initiate wars and exercise the constitutional authority of Congress. President Washington took great care in instructing his military commanders that operations against Indians were to be limited to defensive actions. n24 Any offensive action required congressional authority. He wrote in 1793: "The Constitution vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure." n25

[\*324] In 1801, President Jefferson directed that a squadron be sent to the Mediterranean to safeguard American interests against the Barbary pirates. On December 8, he informed Congress of his actions, asking lawmakers for further guidance. He said he was "unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense ... ." It was up to Congress to authorize "measures of offense also." n26 In 1805, after conflicts developed between the United States and Spain, Jefferson issued a public statement that articulates fundamental constitutional principles: "Congress alone is constitutionally invested with the power of changing our condition from peace to war." n27 In the Smith case of 1806, a federal circuit court acknowledged that if a foreign nation invades the United States, the President has an obligation to resist with force. But there was a "manifest distinction" between going to war with a nation at peace and responding to an actual invasion: "In the former case, it is the exclusive province of congress to change a state of peace into a state of war." n28

The second value that the Founders embraced in the Commander-in-Chief Clause is accountability. Hamilton in Federalist No. 74 wrote that the direction of war "most peculiarly demands those qualities which distinguish the exercise of power by a single hand." The power of directing war and emphasizing the common strength "forms a usual and essential part in the definition of the **executive authority**." n29 Presidential leadership is essential but it cannot operate outside legislative control. The President is subject to the rule of law, **including statutory and judicial restrictions**.

Context is Key

**Haneman 59** J.A.D. is a justice of the Superior Court of New Jersey, Appellate Division. “Russell S. Bertrand et al. v. Donald T. Jones et al.,” 58 NJ Super. 273; 156 A.2d 161; 1959 N.J. Super, Lexis

HN4 In ascertaining the meaning of the word "restrictions" as here employed, **it must be considered in context with the entire clause in which it appears.** It is to be noted that the exception concerns restrictions "which have been complied with." Plainly, this connotes a representation of compliance by the vendor with any restrictions upon the permitted uses of the subject property. The conclusion that "restrictions" refer solely to a limitation of the manner in which the vendor may [\*\*\*14] use his own lands is strengthened by the further provision found in said clause that the conveyance is "subject to the effect, [\*\*167] if any, of municipal zoning laws." Municipal zoning laws affect the use of property.¶ HN5 A familiar maxim to aid in the construction of contracts is noscitur a sociis. Simply stated, this means that **a word is known from its associates.** Words of general and specific import take color from each other when associated together, and thus the word of general significance is **modified by its associates of restricted sense.** 3 Corbin on Contracts, § 552, p. 110; cf. Ford Motor Co. v. New Jersey Department of Labor and Industry, 5 N.J. 494 (1950). The [\*284] word "restrictions," therefore, should be construed as being used in the same limited fashion as "zoning."

Their supervising terms OR conditions for acting don’t meet.

**COURT OF APPEALS 12 [STATE OF WASHINGTON DEPARTMENT OF HEALTH, THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I, RANDALL KINCHELOE Appellant. vs. Respondent, BRIEF OF APPELLANT, http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe's.pdf]**

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put.

The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as;

To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

Vote Neg – Smaller predictable case list comes for Prohibitions only, and allowing modifications creates a bi-directional topic where they can IMPROVE war-fighting by the president.

**2**

**Immigration will pass – Boehner will allow a vote – Obama’s leadership is key**

**HUFFINGTON POST 10 – 26** – 13 GOP Rep Emerges As First House Republican To Join Democrats' Immigration Efforts, <http://www.huffingtonpost.com/2013/10/26/jeff-denham-immigration_n_4166654.html>

With less than three weeks to go in Congress' 2013 legislative calendar, one Republican serving in a heavily Hispanic district has moved to join House Democrats on immigration reform.

The Washington Post reported Saturday that Rep. Jeff Denham (R-Calif.) is ready to sign on with 185 of his House colleagues as a co-sponsor for a pathway to citizenship. The Senate passed an immigration reform bill in June with a strong 68-32 majority, but House Republican leaders have said it will not be considered without majority Republican support.

Denham would be the lone GOP rep at this point, but he does not see that circumstance lasting for very long.

“I’m the first Republican,” he told the Post. “I expect more to come on board.”

Denham's decision comes amid hope from leaders on both sides of the political aisle that a deal can come to fruition. On Wednesday, House Speaker John Boehner (R-Ohio) told reporters just that, vowing that it was an issue that needs to be addressed. One day later, President Barack Obama had his focus on the same issue, arguing that there was still time for immigration reform to make it through.

"If House Republicans have new and different additional ideas for how we should move forward, then we want to hear them," Obama said. "I'll be listening. ... But what we can't do is just sweep the problem under the rug one more time."

Denham also spoke about his decision during a Spanish-language interview with Univision's Jorge Ramos, set to air on "Al Punto" Sunday. Asked whether Obama was right that Boehner was the only thing preventing immigration reform from moving forward, Denham replied, "No."

"That's just not true," he said, adding that issues such as Syria and government spending have impeded progress on immigration reform. "You know, **we need the president to show real leadership on this issue,** as well as other issues that have really held up our schedule."

He said he expects Boehner to keep his word and bring immigration reform for a vote.

"**I’m confident he’s going to bring it to the floor**, but we’re going to continue to make sure that the entire country focuses on this, and that we actually get more Republicans that are willing to take a stand and get out there," Denham told Ramos. "Yes, it’s risky. We will get hit from the left and the right, and there will be a lot of different media that portrays us in different ways in our districts. But what is right for the American people and our economy should be the focus on the entire Congress."

Immigration reform activists are also hopeful. HuffPost's Elise Foley reported Friday that nearly 600 supporters will be in Washington next week, partaking in a series of vigils, marches and visits to congressional offices. Advocacy group PICO National Network is planning to knock on doors in nine districts, including Denham's 10th district in California, which sits to the south of Sacramento and east of the San Francisco bay area.

**Plan kills Obama’s agenda**

**KRINER 10 Assistant professor of political science at Boston University** [Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, page 276-77]

One of the mechanisms by which congressional opposition influences presidential cost-benefit calculations is by sending signals of American disunity to the target state. Measuring the effects of such congressional signals on the calculations of the target state is always difficult. In the case of Iraq it is exceedingly so, given the lack of data on the non-state insurgent actors who were the true “target” of the American occupation after the fall of the Hussein regime. Similarly, in the absence of archival documents, such as those from the Reagan Presidential Library presented in chapter 5, it is all but impossible to measure the effects of congressional signals on the administration’s perceptions of the military costs it would have to pay to achieve its objectives militarily.

By contrast. measuring the domestic political costs of congressional opposition, while still difficult, is at least a tractable endeavor. Chapter 2 posited two primary pathways through which congressional opposition could raise the political costs of staying the course militarily for the president. **First. high-profile congressional challenges** to a use of force can affect real or anticipated public opinion and bring popular pressures to bear on the president to change course. Second, congressional opposition to the president’s conduct of military affairs **can compel him to spend considerable political capital in the military arena to the detriment of other major items on his programmatic agenda**. On both of these dimensions, congressional opposition to the war in Iraq appears to have had the predicted effect.

**Immigration reform expands skilled labor --- spurs relations and growth in China and India.**

**Los Angeles Times, 11/9/2012** (Other countries eagerly await U.S. immigration reform, p. <http://latimesblogs.latimes.com/world_now/2012/11/us-immigration-reform-eagerly-awaited-by-source-countries.html>)

"Comprehensive immigration reform will see **expansion of skilled labor visas**," predicted B. Lindsay Lowell, director of policy studies for the Institute for the Study of International Migration at Georgetown University. A former research chief for the congressionally appointed Commission on Immigration Reform, Lowell said he expects to see at least a **fivefold increase** in the number of highly skilled labor visas that would provide "a **significant shot in the arm for India and China**." There is **widespread consensus among economists and academics** that skilled migration **fosters new trade and business relationships** between countries and **enhances links to the global economy**, Lowell said. "Countries like India and China weigh the opportunities of business abroad from their expats with the possibility of brain drain, and I think they still see the immigration opportunity as a bigger plus than not," he said.

**US/India relations averts South Asian nuclear war.**

**Schaffer**, Spring **2002** (Teresita – Director of the South Asia Program at the Center for Strategic and International Security, Washington Quarterly, p. Lexis)

Washington's increased interest in India since the late 1990s reflects India's economic expansion and position as Asia's newest rising power. New Delhi, for its part, is adjusting to the end of the Cold War. As a result, both giant democracies see that they can **benefit by closer cooperation**. For Washington, the advantages include a wider network of friends in Asia at a time when the region is changing rapidly, as well as a **stronger position** from which to help **calm possible future nuclear tensions in the region**. Enhanced trade and investment benefit both countries and are a **prerequisite for improved U.S. relations with India**. For India, the country's ambition to assume a stronger leadership role in the world and to maintain an economy that lifts its people out of poverty depends critically on good relations with the United States.

**China collapse causes nuclear war**

**Kaminski 7** (Antoni Z., Professor – Institute of Political Studies, “World Order: The Mechanics of Threats (Central European Perspective)”, Polish Quarterly of International Affairs, 1, p. 58)

As already argued, the economic advance of China has taken place with relatively few corresponding changes in the political system, although the operation of political and economic institutions has seen some major changes. Still, tools are missing that would allow the establishment of political and legal foundations for the modem economy, or they are too weak. The tools are efficient public administration, the rule of law, clearly defined ownership rights, efficient banking system, etc. For these reasons, many experts fear an economic crisis in China. Considering the importance of the state for the development of the global economy, the crisis would have serious global repercussions. Its political ramifications could be no less dramatic owing to the special position the military occupies in the Chinese political system, and the existence of many potential vexed issues in East Asia (disputes over islands in the China Sea and the Pacific). A potential hotbed of conflict is also Taiwan's status. Economic recession and the related destabilization of internal policies could lead to a political, or even military crisis. The likelihood of the **global escalation** of the conflict is high, as the interests of Russia, China, Japan, Australia and, first and foremost, the US clash in the region.

3

**1AC ev says the aff ends defference –**

Judicial involvement in war power authority debates turns and escalates every impact

**POSNER & VERMEULE 07 \*Professor of Law at the University of Chicago Law School. \*\*Professor of Law at Harvard** [Eric A. Posner & Adrian Vermeule, Terror in the Balance: Security, Liberty, and the Courts, Oxford University Press] page 17-18

Whatever the doctrinal formulation, the basic distinction between the two views is that our view counsels courts to provide high deference during emergencies, as courts have actually done, whereas the civil libertarian view does not. During normal times, the deferential view and the civil libertarian view permit the same kinds of executive action, and during war or other emergencies, the deferential view permits more kinds of executive action than the civil libertarian view does. We assume that courts have historically provided extra deference during an emergency or war because they believe that deference enables the government, especially the executive, to act quickly and decisively. Although deference also permits the government to violate rights, violations that are intolerable during normal times become tolerable when the stakes are higher. Civil libertarians, on the other hand, claim either that government action is likely to be worse during emergencies than during normal times, or at least that no extra deference should be afforded to government decisionmaking in times of emergency-and that therefore the deferential position that judges have historically taken in emergencies is a mistake.

The deferential view does not rest on a conceptual claim; it rests on a claim about relative institutional competence and about the comparative statics of governmental and judicial performance across emergencies and normal times. In emergencies, the ordinary life of the nation, and the bureaucratic and legal routines that have been developed in ordinary times, are disrupted. In the case of wars, including the "war on terror," the government and the public are not aware of a threat to national security at time 0. At time 1, an invasion or declaration of war by a foreign power reveals the existence of the threat and may at the same time cause substantial losses. At time 2, an emergency response is undertaken.

Several characteristics of the emergency are worthy of note. First, the threat reduces the social pie-both immediately, to the extent that it is manifested in an attack, and prospectively, to the extent that it reveals that the threatened nation will incur further damage unless it takes costly defensive measures. Second, the defensive measures can be more or less effective. Ideally, the government chooses the least costly means of defusing the threat; typically, this will be some combination of military engagement overseas, increased intelligence gathering, and enhanced policing at home. Third, the defensive measures must be taken quickly, and-because every national threat is unique, unlike ordinary crime-the defensive measures will be extremely hard to evaluate. There are standard ways of preventing and investigating street crime, spouse abuse, child pornography, and the like; and within a range, these ways are constant across jurisdictions and even nation-states. Thus, there is always a template that one can use to evaluate ordinary policing. By contrast, emergency threats vary in their type and magnitude and across jurisdictions, depending heavily on the geopolitical position of the state in question. **Thus, there is no general template that can be used for evaluating the government's response**.

In emergencies, then, judges are at sea, even more so than are executive officials. The novelty of the threats and of the necessary responses makes judicial routines and evolved legal rules seem inapposite, even **obstructive**. There is a premium on the executive's capacities for swift, vigorous, and secretive action. Of course, the judges know that executive action may rest on irrational assumptions, or bad motivations, or may otherwise be misguided. But this knowledge is largely useless to the judges, because they cannot sort good executive action from bad, and they know that **the delay** produced by judicial review **is costly in itself.** In emergencies, the judges have no sensible alternative but to defer heavily to executive action, and the judges know this.

Effective fast response and mission planning is key to deterring every conflict globally

**KAGAN & O’HANLON 07 resident scholar at AEI & senior fellow in foreign policy at Brookings** [Frederick Kagan & Michael O’Hanlon, “The Case for Larger Ground Forces”, April 2007, <http://www.aei.org/files/2007/04/24/20070424_Kagan20070424.pdf>]

We live at a time when wars not only rage in nearly every region but threaten to erupt in many places where the current relative calm is tenuous. To view this as a strategic military challenge for the United States is not to espouse a specific theory of America’s role in the world or a certain political philosophy. Such an assessment flows directly from the basic bipartisan view of American foreign policy makers since World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the international system is essential to American peace and prosperity, and that no country besides the United States is in a position to lead the way in countering major challenges to the global order. Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the world such as the Persian Gulf and East Asia, or key potential threats to American security, such as the spread of nuclear weapons and the strengthening of the global Al Qaeda/jihadist movement. The Iranian government has rejected a series of international demands to halt its efforts at enriching uranium and submit to international inspections. What will happen if the US—or Israeli—government becomes convinced that Tehran is on the verge of fielding a nuclear weapon? North Korea, of course, has already done so, and the ripple effects are beginning to spread. Japan’s recent election to supreme power of a leader who has promised to rewrite that country’s constitution to support increased armed forces—and, possibly, even nuclear weapons— may well alter the delicate balance of fear in Northeast Asia fundamentally and rapidly. Also, in the background, at least for now, Sino Taiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and Afghanistan, Venezuela and the United States, and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on offer, the bloodletting will probably, tragically, continue unabated. And as bad as things are in Iraq today, they could get worse. What would happen if the key Shiite figure, Ali al Sistani, were to die? If another major attack on the scale of the Golden Mosque bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is somewhat more stable for the moment, although a major Taliban offensive appears to be in the offing.

Sound US grand strategy must proceed from the recognition that, over the next few years and decades, **the world is going to be a very unsettled and quite dangerous place**, with Al Qaeda and its associated groups as a subset of a much larger set of worries. The only serious response to this international environment is to develop armed forces capable of protecting America’s vital interests throughout this dangerous time. **Doing so requires a military capable of a wide range of missions**—including not only deterrence of great power conflict in dealing with potential hotspots in Korea, the Taiwan Strait, and the Persian Gulf but also associated with a variety of Special Forces activities and stabilization operations. For today’s US military, which already excels at high technology and is increasingly focused on re-learning the lost art of counterinsurgency, this is first and foremost a question of finding the resources to field a large-enough standing Army and Marine Corps to handle personnel intensive missions such as the ones now under way in Iraq and Afghanistan. Let us hope there will be no such large-scale missions for a while. But preparing for the possibility, while doing whatever we can at this late hour to relieve the pressure on our soldiers and Marines in ongoing operations, is prudent. At worst, the only potential downside to a major program to strengthen the military is the possibility of spending a bit too much money. Recent history shows no link between having a larger military and its overuse; indeed, Ronald Reagan’s time in office was characterized by higher defense budgets and yet much less use of the military, an outcome for which we can hope in the coming years, but hardly guarantee. While the authors disagree between ourselves about proper increases in the size and cost of the military (with O’Hanlon preferring to hold defense to roughly 4 percent of GDP and seeing ground forces increase by a total of perhaps 100,000, and Kagan willing to devote at least 5 percent of GDP to defense as in the Reagan years and increase the Army by at least 250,000), we agree on the need to start expanding ground force capabilities by at least 25,000 a year immediately. Such a measure is not only prudent, it is also badly overdue.

**4**

**Text: The Office of Legal Counsel should determine that the Executive Branch lacks the legal authority to use offensive combat drones and should restrict them as if they fell under the War Powers Resolution. The Office of Legal Counsel should require public publishing of all current drone programs and should publish any legal opinions regarding policies adopted by the Executive Branch. The Executive Branch should end combat drone strikes in Yemen and adopt all policies requested by the Office of Legal Counsel. The Executive Branch should convene and sign onto an international convention on the regulation of the sale and military use of drones modeled off of the Convention on Certain Conventional Weapons including a provision that has a United Nations investigatory body investigate and monitor states for enforcement.**

**The CP is competitive and solves the case—OLC rulings do not actually remove authority but nevertheless hold binding precedential value on the executive.**

Trevor W. **Morrison**, October **2010**. Professor of Law, Columbia Law School. “STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448, Lexis.

On the other hand, an OLC that says "yes" too often is not in the client's long-run interest. n49 Virtually all of OLC's clients have their own legal staffs, including the White House Counsel's Office in the White House and the general counsel's offices in other departments and agencies. Those offices are capable of answering many of the day-to-day issues that arise in those components. They typically turn to OLC when the issue is sufficiently controversial or complex (especially on constitutional questions) that some external validation holds special value. n50 For example, when a department confronts a difficult or delicate constitutional question in the course of preparing to embark upon a new program or course of action that raises difficult or politically sensitive legal questions, it has an interest in being able to point to a credible source affirming the  [\*1462]  legality of its actions. n51 The in-house legal advice of the agency's general counsel is unlikely to carry the same weight. n52 Thus, even though those offices might possess the expertise necessary to answer at least many of the questions they currently send to OLC, in some contexts they will not take that course because a "yes" from the in-house legal staff is not as valuable as a "yes" from OLC. But that value depends on OLC maintaining its reputation for serious, evenhanded analysis, not mere advocacy. n53

The risk, however, is that OLC's clients will not internalize the long-run costs of taxing OLC's integrity. This is in part because the full measure of those costs will be spread across all of OLC's clients, not just the client agency now before it. The program whose legality the client wants OLC to review, in contrast, is likely to be something in which the client has an immediate and palpable stake. Moreover, the very fact that the agency has come to OLC for legal advice will often mean it thinks there is  [\*1463]  at least a plausible argument that the program is lawful. In that circumstance, the agency is unlikely to see any problem in a "yes" from OLC.

Still, it would be an overstatement to say that OLC risks losing its client base every time it contemplates saying "no." One reason is custom. In some areas, there is a longstanding tradition - rising to the level of an expectation - that certain executive actions or decisions will not be taken without seeking OLC's advice. One example is OLC's bill comment practice, in which it reviews legislation pending in Congress for potential constitutional concerns. If it finds any serious problems, it writes them up and forwards them to the Office of Management and Budget, which combines OLC's comments with other offices' policy reactions to the legislation and generates a coordinated administration position on the legislation. n54 That position is then typically communicated to Congress, either formally or informally. While no statute or regulation mandates OLC's part in this process, it is a deeply entrenched, broadly accepted practice. Thus, although some within the Executive Branch might find it frustrating when OLC raises constitutional concerns in bills the administration wants to support as a policy matter, and although the precise terms in which OLC's constitutional concerns are passed along to Congress are not entirely in OLC's control, there is no realistic prospect that OLC would ever be cut out of the bill comment process entirely. Entrenched practice, then, provides OLC with some measure of protection from the pressure to please its clients.

But there are limits to that protection. Most formal OLC opinions do not arise out of its bill comment practice, which means most are the product of a more truly voluntary choice by the client to seek OLC's advice. And as suggested above, although the Executive Branch at large has an interest in OLC's credibility and integrity, the preservation of those virtues generally falls to OLC itself. OLC's nonlitigating function makes this all the more true. Whereas, for example, the Solicitor General's aim of prevailing before the Supreme Court limits the extent to which she can profitably pursue an extreme agenda inconsistent with current doctrine, OLC faces no such immediate constraint. Whether OLC honors its oft-asserted commitment to legal advice based on its best view of the law depends largely on its own self-restraint.

2. Formal Requests, Binding Answers, and Lawful Alternatives. - Over time, OLC has developed practices and policies that help maintain its independence and credibility. First, before it provides a written opinion, n55 OLC typically requires that the request be in writing from the head or general counsel of the requesting agency, that the request be as specific and concrete as possible, and that the agency provide its own written  [\*1464]  views on the issue as part of its request. n56 These requirements help constrain the requesting agency. Asking a high-ranking member of the agency to commit the agency's views to writing, and to present legal arguments in favor of those views, makes it more difficult for the agency to press extreme positions.

Second, as noted in the Introduction, n57 OLC's legal advice is treated as binding within the Executive Branch until withdrawn or overruled. n58 As a formal matter, the bindingness of the Attorney General's (or, in the modern era, OLC's) legal advice has long been uncertain. n59 The issue has never required formal resolution, however, because by longstanding tradition the advice is treated as binding. n60 OLC protects that tradition today by generally refusing to provide advice if there is any doubt about whether the requesting entity will follow it. n61 This guards against "advice-shopping by entities willing to abide only by advice they like." n62 More broadly, it helps ensure that OLC's answers matter. An agency displeased with OLC's advice cannot simply ignore the advice. The agency might  [\*1465]  construe any ambiguity in OLC's advice to its liking, and in some cases might even ask OLC to reconsider its advice. n63 But the settled practice of treating OLC's advice as binding ensures it is not simply ignored.

In theory, the very bindingness of OLC's opinions creates a risk that agencies will avoid going to OLC in the first place, relying either on their general counsels or even other executive branch offices to the extent they are perceived as more likely to provide welcome answers. This is only a modest risk in practice, however. As noted above, legal advice obtained from an office other than OLC - especially an agency's own general counsel - is unlikely to command the same respect as OLC advice. n64 Indeed, because OLC is widely viewed as "the executive branch's chief legal advisor," n65 an agency's decision not to seek OLC's advice is likely to be viewed by outside observers with skepticism, especially if the in-house advice approves a program or initiative of doubtful legality.

OLC has also developed certain practices to soften the blow of legal advice not to a client's liking. Most significantly, after concluding that a client's proposed course of action is unlawful, OLC frequently works with the client to find a lawful way to pursue its desired ends. n66 As the OLC Guidelines put it, "when OLC concludes that an administration proposal is impermissible, it is appropriate for OLC to go on to suggest modifications that would cure the defect, and OLC should stand ready to work with the administration to craft lawful alternatives." n67 This is a critical component of OLC's work, and distinguishes it sharply from the courts. In addition to "providing a means by which the executive branch lawyer can contribute to the ability of the popularly-elected President and his administration to achieve important policy goals," n68 in more instrumental terms the practice can also reduce the risk of gaming by OLC's clients. And that, in turn, helps preserve the bindingness of OLC's opinions. n69

 [\*1466]  To be sure, OLC's opinions are treated as binding only to the extent they are not displaced by a higher authority. A subsequent judicial decision directly on point will generally be taken to supersede OLC's work, and always if it is from the Supreme Court. OLC's opinions are also subject to "reversal" by the President or the Attorney General. n70 Such reversals are rare, however. As a formal matter, Dawn Johnsen has argued that "the President or attorney general could lawfully override OLC only pursuant to a good faith determination that OLC erred in its legal analysis. The President would violate his constitutional obligation if he were to reject OLC's advice solely on policy grounds." n71 Solely is a key word here, especially for the President. Although his oath of office obliges him to uphold the Constitution, n72 it is not obvious he would violate that oath by pursuing policies that he thinks are plausibly constitutional even if he has not concluded they fit his best view of the law. It is not clear, in other words, that the President's oath commits him to seeking and adhering to a single best view of the law, as opposed to any reasonable or plausible view held in good faith. Yet even assuming the President has some space here, it is hard to see how his oath permits him to reject OLC's advice solely on policy grounds if he concludes that doing so is indefensible as a legal matter. n73 So the President needs at least a plausible legal basis for  [\*1467]  disagreeing with OLC's advice, which itself would likely require some other source of legal advice for him to rely upon.

The White House Counsel's Office might seem like an obvious candidate. But despite recent speculation that the size of that office during the Obama Administration might reflect an intention to use it in this fashion, n74 it continues to be virtually unheard of for the White House to reverse OLC's legal analysis. For one thing, even a deeply staffed White House Counsel's Office typically does not have the time to perform the kind of research and analysis necessary to produce a credible basis for reversing an OLC opinion. n75 For another, as with attempts to rely in the first place on in-house advice in lieu of OLC, any reversal of OLC by the White House Counsel is likely to be viewed with great skepticism by outside observers. If, for example, a congressional committee demands to know why the Executive Branch thinks a particular program is lawful, a response that relies on the conclusions of the White House Counsel is unlikely to suffice if the committee knows that OLC had earlier concluded otherwise. Rightly or wrongly, the White House Counsel's analysis is likely to be treated as an exercise of political will, not dispassionate legal analysis. Put another way, the same reasons that lead the White House to seek OLC's legal advice in the first place - its reputation for  [\*1468]  providing candid, independent legal advice based on its best view of the law - make an outright reversal highly unlikely. n76

Of course, the White House Counsel's Office may well be in frequent contact with OLC on an issue OLC has been asked to analyze, and in many cases is likely to make it abundantly clear what outcome the White House prefers. n77 But that is a matter of presenting arguments to OLC in support of a particular position, not discarding OLC's conclusion when it comes out the other way. n78The White House is not just any other client, and so the nature of - and risks posed by - communications between it and OLC on issues OLC is analyzing deserve special attention. I take that up in Part III. n79 My point at this stage is simply that the prospect of literal reversal by the White House is remote and does not meaningfully threaten the effective bindingness of OLC's decisions.

**The CP is the only way to internationalize the legal norms of drone regulation**

**Boyle 13** – Professor of Political Science @ La Salle University [Michael J. Boyle (Former Lecturer in International Relations and Research Fellow in the Centre for the Study of Terrorism and Political Violence @ University of St. Andrews), “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) pg. 1–29

The same logic operates on the international level. Lethal drones will eventually be in the hands of those who will use them with fewer scruples than President Obama has. Without a set of internationally recognized standards or norms governing their sale and use, drones will proliferate without control, be misused by governments and non-state actors, and become an instrument of repression for the strong. One remedy might be an international convention on the sale and use of drones which could establish guidelines and norms for their use, perhaps along the lines of the Convention on Certain Conventional Weapons (CCW) treaty, which attempted to spell out rules on the use of incendiary devices and fragment-based weapons.158 While enforcement of these guidelines and adherence to rules on their use will be imperfect and marked by derogations, exceptions and violations, the presence of a convention may reinforce norms against the flagrant misuse of drones and induce more restraint in their use than might otherwise be seen. Similarly, a UN investigatory body on drones would help to hold states accountable for their use of drones and begin to build a gradual consensus on the types of activities for which drones can, and cannot, be used.159 As the progenitor and leading user of drone technology, the US now has an opportunity to show leadership in developing an international legal architecture which might avert some of the worst consequences of their use.

Case

Adventurism

Not reading an impact defense card on this advantage.

Not the same kind of conflict escalation – their internal link card is about vertical escalation from drones to ground troops. Their impact card is about horizontal escalation that draws in great powers.

Impact is too generic – it just says in general conflict can escalate – why didn’t Libya, Afghanistan, Georgia, or literally any other military operation anywhere cause a nuclear holocaust?

Alt causes – bosco says ballistic missiles and nuclear prolif cause war, not drones

1NC Turn—WP Fight DA

Wartime will force Obama to resist. The intractable battle creates a national diversion and impairs military wartime decisions

**Lobel 8**—Professor of Law @ University of Pittsburgh [Jules Lobel, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, Vol. 69, 2008, pg. 391]

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the **congressional restriction** makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly **embolden the President to ignore Congress’s strictures**. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to **ignore and violate legislative wartime enactments** whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53

The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—**wartime reality often favors a strong President who will overwhelm** both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and **ignore legislative enactments that seek to restrict their wartime authority**.

Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an **intractable dispute** over the statute’s constitutionality that **saps the nation’s energy, diverts focus** from the political issues in dispute, and **endangers the rule of law**.

Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary.

If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the **crisis, chaos, and stalemate** that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute.

Moreover, the adoption of a contextual, realist approach will **undermine rather than aid the cooperation and compromise** between the political branches that is so **essential to success in wartime**. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, **modern social science research** suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This **self-serving bias** hardens each side’s position and allows the **dispute to drag on**, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

Stalemate creates an antiwar congressional coalition that guts our commitment to Afghanistan

**Lieberman 10**—Independent Democratic senator from Connecticut [Joseph I. Leiberman, “Back to a Bipartisan Foreign Policy,” Wall Street Journal, November 16, 2010, pg. http://tinyurl.com/m5z623w]

This year's midterm elections marked the first time since 9/11 that national security was not a major consideration for American voters. But it is precisely in the realm of foreign policy and national security that we may have the greatest opportunities for bipartisan **cooperation** between President Obama and resurgent Republicans in Congress.

Seizing these opportunities will require both parties to break out of a destructive cycle that has entrapped them since the end of the Cold War and caused them to depart from the principled internationalist tradition that linked Democratic presidents like Truman and Kennedy with Republican presidents like Nixon and Reagan.

During the 1990s, too many Republicans in Congress reflexively opposed President Clinton's policies in the Balkans and elsewhere. Likewise, during the first decade of the 21st century, too many Democrats came to view the post-9/11 exercise of American power under President Bush as a more pressing danger than the genuine enemies we faced in the world.

The larger truth was that the foreign policy practices and ideals of both President Clinton and Bush were within the mainstream of American history and values. And if one can see through the fog of partisanship that has continued to choke Washington since President Obama was elected in 2008, the same is true of the new administration as well.

President Obama has moved to the internationalist center on several key issues of national security. Although both parties are hesitant to acknowledge it, the story of the Obama administration's foreign policy is as much continuity as change from the second term of the Bush administration—from the surge in Afghanistan to the reauthorization of the Patriot Act, and from drone strikes against al Qaeda to a long-term commitment to Iraq.

Republicans have also stayed loyal to the internationalist policies they supported under President Bush. When they have criticized the Obama administration, it has reflected this worldview—arguing that the White House has not been committed enough in its prosecution of the war in Afghanistan or done enough to defend human rights and democracy in places like Iran and China.

The critical question now, as we look forward to the next two years, is whether this convergence of the two parties towards the internationalist center can be sustained and strengthened. There are three national security priorities where such a **consensus is urgently needed**.

The first is the war in Afghanistan. To his credit, President Obama last December committed more than 30,000 additional troops to Afghanistan as part of a comprehensive counterinsurgency campaign, despite opposition within the Democratic Party.

Having just returned from Afghanistan, I am increasingly confident that the tide there is turning in our favor, with growing signs of military progress. But as Gen. David Petraeus, the top U.S. commander in Afghanistan, has warned, success will come neither quickly nor easily, and there is still much tough fighting ahead. It is all but certain that no more than a small number of U.S. forces will be able to withdraw responsibly in July 2011, and that success in Afghanistan is going to require a **long-term commitment** by the U.S. beyond this date.

Sustaining political support for the war in Afghanistan therefore will increasingly require President Obama and Republicans in Congress to stand together. Failure to sustain this bipartisan alliance runs the risk that an **alternative coalition** will form in Congress, between **antiwar Democrats and isolationist Republicans**. That would be the **single greatest political threat** to the success of the war effort in Afghanistan, which remains critical to our security at home.

Nuclear instability and great power adventurism

**Miller 12**—Professor of International Security Affairs & Director for the Afghanistan-Pakistan program @ National Defense University [Paul D. Miller (Former Director for Afghanistan on the National Security Council staff under Presidents Bush and Obama), “It’s Not Just Al-Qaeda: Stability in the Most Dangerous Region,” World Affairs Journal, March-April 2012, pg. http://tinyurl.com/lnplsb7]

In fact, the war is only now entering its culminating phase, indicated by the willingness of both US and Taliban officials to talk openly about negotiations, something parties to a conflict do only when they see more benefit to stopping a war than continuing it. That means **the war’s ultimate outcome is likely to be decided by the decisions, battles, and bargaining of the next year or so**. And its outcome will have huge implications for the future of US national security. In turn, that means the **collective decision to ignore the war** and its consequences is foolish at best, dangerous at worst. While Americans have lost interest in the war, the war may still have an interest in America. Now is the time, more than ten years into the effort, to remind ourselves what is at stake in Afghanistan and why the United States must secure lasting stability in South Asia.

It was, of course, al-Qaeda’s attack on the US homeland that triggered the intervention in Afghanistan, but wars, once started, always involve broader considerations than those present at the firing of the first shot. The war in Afghanistan now affects all of America’s interests across South Asia: **Pakistan’s stability** and the security of its nuclear weapons, **NATO’s credibility**, **relations with Iran and Russia**, transnational drug-trafficking networks, and more. America leaves the job in Afghanistan unfinished at its peril.

The chorus of voices in the Washington policy establishment calling for withdrawal is growing louder. In response to this pressure, President Obama has pledged to withdraw the surge of thirty thousand US troops by September 2012—faster than US military commanders have recommended—and fully transition leadership for the country’s security to the Afghans in 2013. These decisions mirror the anxieties of the electorate: fifty-six percent of Americans surveyed recently by the Pew Research Center said that the US should remove its troops as soon as possible.

But it is not too late for Obama (who, after all, campaigned in 2008 on the importance of Afghanistan, portraying it as “the good war” in comparison to Iraq) to reformulate US strategy and goals in South Asia and explain to the American people and the world why an ongoing commitment to stabilizing Afghanistan and the region, however unpopular, is nonetheless necessary.

The Afghanistan Study Group, a collection of scholars and former policymakers critical of the current intervention, argued in 2010 that al-Qaeda is no longer in Afghanistan and is unlikely to return, even if Afghanistan reverts to chaos or Taliban rule. It argued that three things would have to happen for al-Qaeda to reestablish a safe haven and threaten the United States: “1) the Taliban must seize control of a substantial portion of the country, 2) Al Qaeda must relocate there in strength, and 3) it must build facilities in this new ‘safe haven’ that will allow it to plan and train more effectively than it can today.” Because all three are unlikely to happen, the Study Group argued, al-Qaeda almost certainly will not reestablish a presence in Afghanistan in a way that threatens US security.

In fact, none of those three steps are necessary for **al-Qaeda** to regain its safe haven and threaten America. The group could return to Afghanistan even if the Taliban do not take back control of the country. It could—and probably would—find safe haven there if Afghanistan relapsed into chaos or civil war. Militant groups, including al-Qaeda offshoots, have gravitated toward other failed states, like Somalia and Yemen, but Afghanistan remains especially tempting, given the network’s familiarity with the terrain and local connections. Nor does al-Qaeda, which was never numerically overwhelming, need to return to Afghanistan “in strength” to be a threat. Terrorist operations, including the attacks of 2001, are typically planned and carried out by very few people. Al-Qaeda’s resilience, therefore, means that stabilizing Afghanistan is, in fact, necessary even for the most basic US war aims. The international community should not withdraw until there is an Afghan government and Afghan security forces with the will and capacity to deny safe haven without international help.

Setting aside the possibility of al-Qaeda’s reemergence, the United States has other important interests in the region as well—notably preventing the Taliban from gaining enough power to destabilize neighboring Pakistan, which, for all its recent defiance, is officially a longstanding American ally. (It signed two mutual defense treaties with the United States in the 1950s, and President Bush designated it a major non-NATO ally in 2004.) **State failure in Pakistan** brokered by the Taliban could mean regional chaos and a possible **loss of control of its nuclear weapons**. Preventing such a catastrophe is clearly a vital national interest of the United States and cannot be accomplished with a few drones.

Alarmingly, Pakistan is edging toward civil war. A collection of militant Islamist groups, including al-Qaeda, Tehrik-e Taliban Pakistan (TTP), and Tehrik-e Nafaz-e Shariat-e Mohammadi (TNSM), among others, are fighting an insurgency that has escalated dramatically since 2007 across Khyber Pakhtunkhwa, the Federally Administered Tribal Areas, and Baluchistan. According to the Brookings Institution’s Pakistan Index, insurgents, militants, and terrorists now regularly launch more than one hundred and fifty attacks per month on Pakistani government, military, and infrastructure targets. In a so far feckless and ineffectual response, Pakistan has deployed nearly one hundred thousand regular army soldiers to its western provinces. At least three thousand soldiers have been killed in combat since 2007, as militants have been able to seize control of whole towns and districts. Tens of thousands of Pakistani civilians and militants—the distinction between them in these areas is not always clear—have been killed in daily terror and counterterror operations.

The two insurgencies in Afghanistan and Pakistan are linked. Defeating the Afghan Taliban would give the United States and Pakistan momentum in the fight against the Pakistani Taliban. A Taliban takeover in Afghanistan, on the other hand, will give new strength to the Pakistani insurgency, which would gain an ally in Kabul, safe haven to train and arm and from which to launch attacks into Pakistan, and a huge morale boost in seeing their compatriots win power in a neighboring country. Pakistan’s collapse or fall to the Taliban is (at present) unlikely, but the implications of that scenario are so dire that they cannot be ignored. Even short of a collapse, increasing chaos and instability in Pakistan could give cover for terrorists to increase the intensity and scope of their operations, perhaps even to achieve the cherished goal of **stealing a nuclear weapon**.

Although our war there has at times seemed remote, Afghanistan itself occupies crucial geography. Situated between Iran and Pakistan, bordering China, and within reach of Russia and India, it sits on a crossroads of Asia’s great powers. This is why it has, since the nineteenth century, been home to the so-called Great Game—in which the US should continue to be a player.

Two other players, Russia and Iran, are aggressive powers seeking to establish hegemony over their neighbors. Iran is seeking to build nuclear weapons, has an elite military organization (the Quds Force) seeking to export its Islamic Revolution, and uses the terror group Hezbollah as a proxy to bully neighboring countries and threaten Israel. Russia under Vladimir Putin is seeking to reestablish its sphere of influence over its near abroad, in pursuit of which it (probably) cyber-attacked Estonia in 2007, invaded Georgia in 2008, and has continued efforts to subvert Ukraine.

Iran owned much of Afghan territory centuries ago, and continues to share a similar language, culture, and religion with much of the country. It maintains extensive ties with the Taliban, Afghan warlords, and opposition politicians who might replace the corrupt but Western-oriented Karzai government. Building a stable government in Kabul will be a small step in the larger campaign to limit Tehran’s influence.

Russia remains heavily involved in the Central Asian republics. It has worked to oust the United States from the air base at Manas, Kyrgyzstan. It remains interested in the huge energy reserves in Kazakhstan and Turkmenistan. Russia may be wary of significant involvement in Afghanistan proper, unwilling to repeat the Soviet Union’s epic blunder there. But a US withdrawal from Afghanistan followed by Kabul’s collapse would likely **embolden Russia to assert its influence** more aggressively elsewhere in Central Asia or Eastern Europe, especially in the Ukraine.

A US departure from Afghanistan will also continue to resonate for years to come in the strength and purpose of NATO. Every American president since Harry Truman has affirmed the centrality of the Atlantic Alliance to US national security. The war in Afghanistan under the NATO-led International Security Assistance Force (ISAF), the Alliance’s first out-of-area operation in its sixty-year history, was going poorly until the US troop surge. Even with the limited success that followed, allies have complained that the burden in Afghanistan has been distributed unevenly. Some, like the British, Canadians, and Poles, are fighting a shooting war in Kandahar and Helmand, while others, like the Lithuanians and Germans, are doing peacekeeping in Ghor and Kunduz. The poor command and control—split between four regional centers—left decisionmaking slow and poorly coordinated for much of the war. ISAF’s strategy was only clarified in 2008 and 2009, when Generals David McKiernan and Stanley McChrystal finally developed a more coherent campaign plan with counterinsurgency-appropriate rules of engagement.

A bad end in Afghanistan could have **dire consequences for the Atlantic Alliance**, leaving the organization’s future, and especially its **credibility as a deterrent to Russia, in question**. It would not be irrational for a Russian observer of the war in Afghanistan to conclude that if NATO cannot make tough decisions, field effective fighting forces, or distribute burdens evenly, it **cannot defend Europe**. The United States and Europe **must prevent that outcome by salvaging a credible result to its operations in Afghanistan**—one that both persuades Russia that NATO is still a fighting alliance and preserves the organization as a pillar of US national security.

For some critics, organizing US grand strategy around the possible appearance of Russian tanks across the Fulda Gap is the perfect example of generals continuing to fight the last war. For them, the primary threat to US national security comes from terrorists, insurgency, state failure, ecological disaster, infectious pandemic disease, cyber attacks, transnational crime, piracy, and gangs.

But if that view of the world is right, it is all the more reason to remain engaged in Afghanistan, because it is the epicenter of the new, asymmetric, transnational threats to the US and allied national security. Even those who deny al-Qaeda could regain safe haven in Afghanistan cannot deny how much power, and capacity for damage, the drug lords have acquired there. In some years they have controlled wealth equivalent to fifty percent of Afghanistan’s GDP and produced in excess of ninety percent of the world’s heroin. Today, their products feed Europe’s endemic heroin problem, and the wealth this trade generates has done much to undermine nine years of work building a new and legitimate government in Kabul. In their quest for market share, the drug lords will expand wherever there is demand for their product or potential to grow a secure supply, almost certainly starting in Pakistan, where the trade was centered in the 1980s. Where the drug lords go, state failure, along with its accompanying chaos and asymmetric threats, will follow, as the violence and anarchy currently wracking parts of Mexico suggest. Imagine the Federally Administered Tribal Areas as a failed narco-state with the profits funding the revival of al-Qaeda or its many terror offshoots.

South Asia’s narcotics-smuggling cartels are dangerously close to seizing control of an entire state and using it to undermine law, order, and stability across an entire region. The poppy and heroin kingpins are fabulously wealthy and powerful; they oppose US interests, weaken US allies, and are headquartered in Afghanistan. Defeating them is a vital interest of the United States.

The allied mission in Afghanistan also aims to encourage the growth of democracy. Some cringe at the very thought of democratization being a part of US foreign policy, so discredited is the idea, for some, by the Iraq War, by the enduring corruption of the Afghan government, and by neoconservatives’ supposed naïveté and arrogance in assuming that this part of the world would yield so easily to democratic reform. But fostering democracy is still a vital American national security interest. However daunting the experience of trying to grow democracy in hostile soil may be, it is nonetheless true that genuine democratic change brings stability. Democracies tend to ally and trade with each other; they see the world in similar ways, and settle disputes peacefully. Spreading democracy decreases the frequency of war, creates potential allies, widens zones of stability, and as a consequence makes America safer. This is why we dare not give up on democracy promotion in South Asia.

The process of transitioning to democracy is hard, time-consuming, and even risky—it can temporarily increase the chances of instability as the experience in Iraq, among other recent examples, has shown. The difficulties of democratization are particularly well dramatized by events in Afghanistan, which has held four elections in ten years that have not made the country stable or the government honest. Continued inefficiency and corruption has undermined Afghans’ confidence in the government—although not their belief in the idea of democracy—with predictable results on voter turnout.

There is nothing inevitable about democracy’s success, as neoconservatives appeared to believe after the fall of the Soviet Union, the Taliban, or the Baathist regime in Iraq. But there is also nothing inevitable about its failure, as realists have argued in the years since these events. Democracies require longer time lines than an electoral cycle or deployment timetable, and they require security and institutional capacity, not just elections.

Afghanistan will not become a model of democracy within the foreseeable future, thanks to persistent problems of insecurity, corruption, and poverty. But the opportunity for some form of rough democracy in Afghanistan is real. Polling consistently shows that Afghans welcome greater accountability and representation in their government. Their main complaint is not that Kabul is too democratic, but that it is not democratic enough, failing to follow the rules of democratic fair play. That gives the United States the opportunity to continue to encourage genuinely local efforts to build a new democracy through capacity building, technical assistance, and training programs. Given the choice between planting democratic seeds today and accepting a tyranny imposed by a minority, the United States should choose the former every time.

Finally, the United States should remain involved in Afghanistan to prevent the reemergence of a humanitarian catastrophe. If Kabul collapses, civil war will almost certainly erupt and, at bare minimum, the warlords will reestablish their brutal fiefdoms. During Afghanistan’s civil wars, from 1992 to 2001, warlords at the head of sectarian militias regularly committed war crimes, **crimes against humanity, and ethnic cleansing**, as the Afghan Independent Human Rights Commission, Human Rights Watch, and the UN have well documented. The Taliban amassed a long record of massacring civilians and targeting the Hazara for ethnic cleansing, notably at Mazar-i-Sharif in 1998, Robatak Pass in 2000, and Yakawlang in 2001. But their crimes were not unique; Ittihad-e-Islami, for example, was accused of ethnic cleansing against the Hazara during a battle in the West Kabul neighborhood of Afshar in 1993. And if the Taliban take power over part or all of Afghanistan, **reprisal murders** against supporters of the Karzai government, including perhaps **whole tribes**, are likely to be widespread and swift, especially against **women and religious minorities**.

1NC Solvency—Congress Won’t Enforce

President does not abide to the WPR. Congress will inevitably fall in line

**Bell 4**—Professor of Political Science @ Randolph-Macon College [Lauren Cohen Bell, “Following the Leaders or Leading the Followers? The US President's Relations with Congress,” Journal of Legislative Studies, Summer/Autumn, 2004, Vol. 10 Issue 2/3, pg. 193-205]

As noted ahove. Article I of the Constitution grants to the Congress the sole authority to make declarations of war. However, the president has the power to command US military personnel based on the provisions of **Article II**. Over the course of US history, the commander-in-chief power has been interpreted to permit presidents to commit troops to areas of conflict even **in the absence of a formal declaration of war**. Today, formal declarations of war are the exception rather than the rule; separation of powers expert Louis Fisher notes that through 1991 only five wars had ever been declared and that "in only one (the War of 1812) did members of Congress actually debate the merits of entering into hostilities'.'^ As Samuel Kemell and Gary Jacohson note: "[SJince 1989 U.S. armed forces have been almost continuously engaged somewhere in the world.''^

This was not always the case. Fisher points out that there is evidence of presidential restraint with regard to war-making by relating the story of President Grover Cleveland (1885-89; 1893-97), who refused to mobilise troops for a conflict with Cuba despite Congress' intention to declare war. In Fisher's account, Cleveland told the Congress: 'I will not mobilize the army ... I happen to know that we can buy the island of Cuba from Spain for $100,000,000, and a war will cost vastly more than that and will entail another long list of pensioners. It would be an outrage to declare war.''^ Yet, in the modem history of presidential-congressional relations, it is much more frequently the president who has mobilised American troops without consultation with the Congress and in the absence of a formal declaration of war. And it is clear that even when we consider Cleveland's actions, the president has been far more important to the conduct of American foreign policy than the Congress.

This circumstance led, in the aftermath of the war in Vietnam, to congressional passage of the War Powers Resolution in 1973. The War Powers Resolution (WPR) was an attempt to constrain presidential discretion with regard to committing troops oversees. Section 3 of the WPR requires that 'The president in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances".' Section 4 of the WPR gives the president 48 hours to provide a report to both Chambers of the Congress detailing the reason for committing troops, the authority under which he committed them and his prediction conceming the duration of the troops' engagement abroad.'^ Once the president has informed the Congress of the commitment of troops, and in the event that the Congress does not declare war, the WPR requires the president to end the engagement within 60 days, with the possibility of an additional 30 days' commitment in the event that the president certifies to the Congress that the additional time is necessary.^\*\* According to the Congressional Research Service (CRS), the research branch of the Library of Congress, since the War Powers Resolution was enacted over President Richard M. Nixon's 1973 veto, it has been invoked on 107 occasions (to 23 July 2003).^' Figure 2 illustrates both the absolute number of times as well as the rate of each president's exercise of war powers. As Figure 2 demonstrates, the rate of War Powers Resolution uses has continually increased since it took effect in 1974.

A reading of the WPR would seem to clarify the relationship between Congress and the president with regard to the exercise of national war powers. A close reading would also suggest that the president and Congress share war-making power. Yet no president has ever recognised the WPR as a constraint on his ability to move American armed forces around the globe or keep them in place as long as necessary. Moreover, **presidents rarely abide by the provisions** of the Resolution that require their consultation with the Congress. As CRS researcher Richard F. Grimmett notes, 'there has been very little consultation with Congress under the Resolution when consultation is defined to mean seeking advice prior to a decision to introduce troops'.^" And while the Congress has, from time to time, expressed its sense that troops should be withdrawn from conflicts or engagements abroad, in truth the Congress has relatively **few options for dealing with a president** that violates the WPR. Indeed, as the late presidency scholar Aaron Wildavsky notes, the Congress is much less likely to challenge presidents" foreign policy actions than it is willing to challenge presidents" domestic policy actions.'^'^ This is because presidents oversee an enormous national security apparatus and because the constituents represented by members of Congress rarely hold strong opinions on matters of foreign policy. As a result, congressional challenges to violations of the WPR consist mostly of holding oversight hearings and passing symbolic resolutions.''\* Moreover, once troops are committed abroad. Congress almost **always falls in line with the president’s vision** of the scope of the conflict and the need for a military presence. The members of Congress become **reluctant to challenge a president** who has troops on the ground and typically acquiesce to the president’s wishes when it comes to provisions for support. In this way, the president is able to exercise some **leadership over the Congress**, whose members generally find it politically **expedient to follow the president** on matters pertaining to the military or the conduct of America's relations with other countries. Pg. 200-202

History is on our side. The WPR is ineffective

**Keynes 92**—Professor of Political Science @ Pennsylvania State University [Keynes, Edward, “War Powers Resolution: A Bad Idea Whose Time Has Come and Gone,” University of Toledo Law Review, Vol. 23, Issue 2 (Winter 1992), pp. 343-362]

Despite various presidents' avoidance of the Resolution's formal reporting requirements, analysis and debate on the measure's efficacy and constitutionality during the past. eighteen years have focused on the reporting and triggering mechanisms in section 4(a)(1) and the legislative veto in section 5(b), permitting Congress to order the President to withdraw armed forces from combat by concurrent resolution.2 9 This obsessive focus on the reporting-triggering mechanism and the constitutionality of the legislative veto has obscured the Resolution's underlying rationales and has inhibited an evaluation of its overall effectiveness in promoting joint congressional-presidential participation in and responsibility for imtiating, conducting, and terminating military hostilities. By enacting the War Powers Resolution, Congress hoped to redress the balance between itself and the President when deciding to transform the nation from a condition of peace to one of war or hostilities and to assure that such decisions would evoke the public support necessary to wage war effectively 30 Given these objectives, the Resolution attempts to create the conditions for consultation and decision-making prior to committing U.S. armed forces to combat or to regions where hostilities are imminent. 3'

Although U.S. presidents have submitted eighteen reports to Congress since 1973 (Ford submitted three, Carter one, and Reagan fourteen), these episodes **do not reveal the pattern of prior consultation and joint decisionmaking** that the Resolution's authors hoped their Resolution would achieve. 32 In **ten of twelve** instances in which the President dispatched U.S. armed forces abroad without reporting to Congress, the number of troops and the duration of operations were too limited to test the Resolution's efficacy 3 The dispatch of military advisors to El Salvador 34 and the conduct of military training exercises in Honduras" raised serious foreign-policy questions, but Congress did not deal with these concerns within the framework of the War Powers Resolution. As a cursory analysis of the eighteen decisions that Presidents **Ford, Carter, Reagan, and Bush** communicated to Congress indicates, presidential reporting has not achieved the hoped-for advance consultation and joint decision-making.

As the first four episoaes (the Da Nang sea-lift, the evacuations from Saigon and Cambodia, and the Mayaguez rescue) reveal, President **Ford** informed Congress either shortly before, during, or immediately after military operations.36 While the State Department's Legal Advisor, Monroe Leigh, claimed that the President's notification met the War Powers Resolution's reporting and consultation requirements, "7 the timing and perfunctory nature of the reports do not represent either consultation or joint decision-making. The President merely informed Congress that military operations were underway or that they were imminent. However, the limited scope and duration of the operations as well as their non-offensive nature suggest that they were within the scope of the President's defensive authority as commander in chief.3 "

President Jimmy **Carter** failed to inform or consult Congress before the ill-fated attempt to rescue American hostages from the U.S. embassy in Teheran on April 24, 1980.19 Arguing that prior consultation could jeopardize the security of the rescue operation, Carter simply ignored the section 3 requirement of reporting to Congress "in every possible instance" in which the President introduces troops into hostilities or in which hostilities are imminent.4 0 Arguably, since the taking of hostages is an aggressive act under international law, one could describe the President's conduct as defensive and, therefore, within the zone of authority that the Constitution leaves to presidential discretion.4 '

President Ronald **Reagan**'s use of armed forces in Lebanon, the dispatch of naval forces to protect reflagged Kuwaiti tankers in the Persian Gulf, and aerial attacks against Libya indicate a pattern of presidential initiative and congressional deference, 42 with the possible exception of Congress' decision to invoke section 4(a)(1) of the Resolution in September, 1983 On July 6, 1982, President Reagan announced his intention to send a contingent of Marines to Beirut, Lebanon, as part of a multinational peacekeeping force. 43 After withdrawing this first contingent on September 10, the President dispatched a second contingent on September 20, 1982. 44 While Clement Zaoiocki (D Wisc.), Chairman of the House Foreign Affairs Committee, expressed his concerns in writing to the President, Congress did not invoke the War Powers Resolution until September of 1983. 4 1 As a response to a terrorist attack on the Marines' barracks on August 30, 1983, Congress enacted the Multinational Force in Lebanon Resolution ("MFLR") on September 29 "

Although Reagan did not report to Congress under section 4(a)(1), after prolonged negotiations, the MFLR stated that section 4 of the War Powers Resolution had been operative since August 29 47 Congress also authorized the Marines' continuing participation for eighteen months.4 8 While President Reagan never acknowledged that section 4 had become operative, he did sign the MFLR into law 49 However, he denied that his authority to dispatch armed forces for peacekeeping purposes could be "infringed by statute." 50 Referring to the MFLR, Reagan rejected the interpretation that his signature acknowledged congressional power "to revise the President's constitutional authority to deploy United States Armed Forces.''"

Since 1973, the War Powers Resolution's consulting, reporting, and triggering provisions **have not appreciably altered the pattern of presidential initiative** and congressional deference to various presidents' decisions to use military force as an instrument of U.S. foreign policy Following the U.S. defeat in Vietnam, Gerald Ford's brief term in office, and Jimmy Carter's failure in Iran, Ronald Reagan's decision to **ignore or circumvent** the War Powers Resolution's consulting and reporting requirements could be interpreted as a deliberate attempt to challenge congressional authority or, alternatively, as a successful strategy for restoring presidential power and U.S. military credibility Were it not for the revelations of covert arms transfers to Iran and illicit aid for the Nicaraguan Contras, Reagan's reassertion of presidential power in military and foreign affairs might have gone completely unchallenged. Despite these misadventures, Ronald Reagan's successful restoration of the presidency enabled George Bush to take unparalleled initiatives in invading Panama and dispatching armed forces to the Persian Gulf. Pg. 252-353

**1NC – AUMF 2.0**

Showdown results in expanded Presidential authority. Public sentiment will force Congress to capitulate

**Posner & Vermeule 07**—Professor of Law @ The University of Chicago & Professor of Law @ Harvard Law School [Eric A. Posner & Adrian Vermeule, “Constitutional Showdown,” University of Chicago Law School, John M. Olin Law & Economics Working Paper NO. 348, July 2007, pg. http://ssrn.com/abstract\_id=1002996

Public constitutional sentiment is the **bedrock**, but that does not mean that it will be profound or even intelligent. There is no reason to believe that public constitutional sentiment actually reflects the optimal allocation of authority: it may be that public constitutional sentiment is **simply uninformed**, or is **heavily influenced by the private interests of groups or elites**. It might be that social welfare is maximized if Congress has the authority to terminate the war, but public constitutional sentiment nonetheless places that authority with the president. Our focus is not on whether public constitutional sentiment is optimal but what, given that sentiment, is the optimal way for Congress and the president to act. We will bracket the possibility that Congress and the president may care sufficiently about the public interest, while knowing that **public constitutional sentiment is uninformed and bad for the country**, that they would **cooperate in allocating powers and avoid impasses** which would be resolved by public constitutional sentiment. This possibility is not absurd: it is reflected in the views of people who oppose proposals for constitutional conventions because of the risk that the constitution that emerges will be worse than the constitution that we have. However, if Congress and the president can maintain such an allocation of powers **voluntarily**, then, by definition, showdowns do not occur. Thus, we can ignore this possibility for purposes of our discussion.

If public constitutional sentiment will ultimately settle the question of whether Congress or the president has the power to terminate the war, why do showdowns occur? One might think that Congress and the president will simply resolve their dispute by consulting public constitutional settlement. The alternative would only be a **showdown** that would last long enough to rouse the public, and the **paralysis of government during this interval** could damage both institutions and ruin the electoral chances of their occupants. Pg. 16 -17,

The expansion will include AUMF 2.0 that increases US drone strikes and undermines the rule of law

**Brooks 13**—Professor of Law @ Georgetown University [Rosa Brooks (Senior Fellow @ New America Foundation, Former Counselor to the Undersecretary of Defense for Policy @ Department of Defense, Former Special Coordinator for Rule of Law and Humanitarian Policy @ DOD and Recipient of the Secretary of Defense Medal for Outstanding Public Service), “Mission Creep in the War on Terror” Foreign Policy | MARCH 14, 2013, pg. http://www.foreignpolicy.com/articles/2013/03/14/mission\_creep\_in\_the\_war\_on\_terror?page=0,0]

With Option 3 -- lie, lie, lie -- off the table, and fudging and obfuscation growing harder to comfortably sustain, the thoughts of administration officials turn naturally to Option 2: change the law. Thus, as the Washington Post reported last weekend, some administration officials are apparently considering asking Congress for a new, improved "**AUMF 2.0**," one that would place U.S. drone policy on firmer legal footing.

Just who is behind this notion is unclear, but the idea of a revised AUMF has been gaining considerable **bipartisan traction** outside the administration. In a recent Hoover Institution publication, for instance, Bobby Chesney, who served in the Obama Justice Department, teams up with Brookings's Ben Wittes and Bush administration veterans Jack Goldsmith and Matt Waxman to argue for a revised AUMF -- one that can provide "a new legal foundation for next-generation terrorist threats."

I'm as fond of the rule of law as the next gal, so in a general sense, I applaud the desire to ensure that future executive branch counterterrorist activities are consistent with the laws passed by Congress. But "laws" and "the rule of law" are two different animals, and an expanded new AUMF is a bad idea.

Sure, legislative authorization for the use of force against "next generation" terrorist threats would give an additional **veneer of legality to U.S. drone policy**, and make congressional testimony less uncomfortable for John Brennan and Eric Holder. But an expanded AUMF would also likely lead to **thoughtless** further **expansion of targeted killings**. This would be strategically foolish, and would further **undermine the rule of law**.

Terror

No impact – the closest their internal link to Israeli-iran and Saudi wars comes to saying anything is that instability “**is likely to affect Israeli and Iranian calculations”**

Aggressive targeted killing policy’s key to stability in Yemen

**Dowd 13**—Alan W. Dowd, writes on national defense, foreign policy, and international security in multiple publications including Parameters, Policy Review, The Journal of Diplomacy and International Relations, World Politics Review, American Outlook, The Baltimore Sun, The Washington Times, The National Post, The Wall Street Journal Europe, The Jerusalem Post, and The Financial Times Deutschland [Winter-Spring 2013, “Drone Wars: Risks and Warnings,” Parameters, Vol. 42.4/43.1]

At the beginning of President Hadi’s May offensive he, therefore, had a fractured army and a dysfunctional air force. Army leaders from competing factions were often disinclined to support one another in any way including facilitating the movement of needed supplies. Conversely, the air force labor strike had been a major setback to the efficiency of the organization, which was only beginning to operate as normal in May 2012. Even before the mutiny, the Yemen Air Force had only limited capabilities to conduct ongoing combat operations, and it did not have much experience providing close air support to advancing troops. Hadi attempted to make up for the deficiencies of his attacking force by obtaining aid from Saudi Arabia to hire a number of tribal militia fighters to support the regular military. These types of fighters have been effective in previous examples of Yemeni combat, but they could also melt away in the face of military setbacks.

Adding to his problems, President Hadi had only recently taken office after a long and painful set of international and domestic negotiations to end the 33-year rule of President Saleh. If the Yemeni military was allowed to be defeated in the confrontation with AQAP, that outcome could have led to the **collapse of the Yemeni reform government** and the emergence of **anarchy throughout the country**. Under these circumstances, Hadi needed every military edge that he could obtain, and drones would have been a valuable asset to aid his forces as they moved into combat. As planning for the campaign moved forward, it was clear that AQAP was not going to be driven from its southern strongholds easily. The fighting against AQAP forces was expected to be intense, and Yemeni officers indicated that they respected the fighting ability of their enemies.16

Shortly before the ground offensive, drones were widely reported in the US and international media as helping to enable the Yemeni government victory which eventually resulted from this campaign.17 Such support would have included providing intelligence to combatant forces and eliminating key leaders and groups of individuals prior to and then during the battles for southern towns and cities. In one particularly important incident, Fahd al Qusa, who may have been functioning as an AQAP field commander, was killed by a missile when he stepped out of his vehicle to consult with another AQAP leader in southern Shabwa province.18 It is also likely that drones were used against AQAP fighters preparing to ambush or attack government forces in the offensive.19 Consequently, drone warfare appears to have played a significant role in winning the campaign, which ended when the last AQAP-controlled towns were recaptured in June, revealing a shocking story of the abuse of the population while it was under occupation.20 Later, on October 11, 2012, US Secretary of Defense Leon Panetta noted that drones played a “vital role” in government victories over AQAP in Yemen, although he did not offer specifics.21 AQAP, for its part, remained a serious threat and conducted a number of deadly actions against the government, although it no longer ruled any urban centers in the south.

Economics drive AQAP recruitment in Yemen, not drone strikes

**Swift 12**—Christopher Swift is a fellow at the University of Virginia's Center for National Security Law [July 1, 2012, “The Drone Blowback Fallacy,” Foreign Affairs, http://www.foreignaffairs.com/articles/137760/christopher-swift/the-drone-blowback-fallacy?page=show]

Al Qaeda exploits U.S. errors, to be sure. As the Yemen scholar Gregory Johnsen correctly observes, the death of some 40 civilians in the December 2009 cruise missile strike on Majala infuriated ordinary Yemenis and gave AQAP an unexpected propaganda coup. But the fury produced by such tragedies is not systemic, not sustained, and, ultimately, **not sufficient**. As much as al Qaeda might play up civilian casualties and U.S. intervention in its recruiting videos, the Yemeni tribal leaders I spoke to reported that the **factors driving young men into the insurgency are overwhelmingly economic**.

From al Hudaydah in the west to Hadhramaut in the east, AQAP is building complex webs of dependency within Yemen's rural population. It gives idle teenagers cars, khat, and rifles -- the symbols of Yemeni manhood. It pays salaries (up to $400 per month) that lift families out of poverty. It supports weak and marginalized sheikhs by digging wells, distributing patronage to tribesmen, and punishing local criminals. As the leader of one Yemeni tribal confederation told me, "**Al Qaeda attracts those who can't afford to turn away**."

Religious figures echoed these words. Though critical of the U.S. drone campaign, none of the Islamists and Salafists I interviewed believed that drone strikes explain al Qaeda's burgeoning numbers. "The driving issue is development," an Islamist parliamentarian from Hadramout province said. "Some districts are so poor that joining al Qaeda represents the best of several bad options." (Other options include criminality, migration, and even starvation.) A Salafi scholar engaged in hostage negotiations with AQAP agreed. "Those who fight do so because of the injustice in this country," he explained. "A few in the north are driven by ideology, but in the south it is mostly about poverty and corruption."

**Despite Yemenis' antipathy toward drones**, my conversations also revealed a surprising degree of pragmatism. Those living in active conflict zones drew clear distinctions between earlier U.S. operations, such as the Majala bombing, and more recent strikes on senior al Qaeda figures. "Things were very bad in 2009," a tribal militia commander from Abyan province told me, "but **now the drones are seen as helping us**." He explained that Yemenis could "accept [drones] as long as there are no more civilian casualties." An Islamist member of the separatist al-Harak movement offered a similar assessment. "Ordinary people have become **very practical about drones**," he said. "If the United States focuses on the leaders and civilians aren't killed, then drone strikes will hurt al Qaeda more than they help them."

Some of the men I interviewed admitted that they had changed their minds about drone strikes. Separatists in Aden who openly derided AQAP as a proxy of Yemen's recently deposed president, Ali Abdullah Saleh, privately acknowledged the utility of the U.S. drone campaign. "Saleh created this crisis in order to steal from America and stay in power," a former official from the now-defunct People's Democratic Republic of Yemen told me. "Now it is our crisis, and we need every tool to solve it."

Yemeni journalists, particularly those with firsthand exposure to AQAP, shared this view: "I opposed the drone campaign until I saw what al Qaeda was doing in Jaar and Zinjibar," an independent reporter in Aden said. "Al Qaeda hates the drones, they're absolutely terrified of the drones ... and **that is why we need them**."

Prefer Swift—his evidence comes from comprehensive, on the ground interviews with a breadth of Yemeni leaders

**Swift 12**—Christopher Swift is a fellow at the University of Virginia's Center for National Security Law [July 1, 2012, “The Drone Blowback Fallacy,” Foreign Affairs, http://www.foreignaffairs.com/articles/137760/christopher-swift/the-drone-blowback-fallacy?page=show]

Last month, I traveled to Yemen to study how AQAP operates and whether the conventional understanding of the relationship between drones and recruitment is correct. While there, I conducted 40 interviews with tribal leaders, Islamist politicians, Salafist clerics, and other sources. These subjects came from 14 of Yemen's 21 provinces, most from rural regions. Many faced insurgent infiltration in their own districts. Some of them were actively fighting AQAP. Two had recently visited terrorist strongholds in Jaar and Zinjibar as guests. I conducted each of these in-depth interviews using structured questions and a skilled interpreter. I have withheld my subjects' names to protect their safety -- a necessity occasioned by the fact that some of them had survived assassination attempts and that others had recently received death threats.

These men had little in common with the Yemeni youth activists who capture headlines and inspire international acclaim. As a group, they were older, more conservative, and more skeptical of U.S. motives. They were less urban, less wealthy, and substantially less secular. But to my astonishment, **none** of the individuals I interviewed **drew a causal relationship between U.S. drone strikes and al Qaeda recruiting**. Indeed, of the 40 men in this cohort, only five believed that U.S. drone strikes were helping al Qaeda more than they were hurting it.

No nuke terror---super unlikely

**Schneidmiller 9** (Chris, Experts Debate Threat of Nuclear, Biological Terrorism, 13 January 2009, http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php)

There is an "almost vanishinglysmall" likelihood that terrorists would ever be able to acquire and detonate a nuclear weapon, one expert said here yesterday (see GSN, Dec. 2, 2008). In even the most likely scenario of nuclear terrorism, there are 20 barriers between extremists and a successful nuclear strike on a major city, said John Mueller, a political science professor at Ohio State University. The process itself is seemingly straightforward but exceedingly difficult -- buy or steal highly enriched uranium, manufacture a weapon, take the bomb to the target site and blow it up. Meanwhile, variables strewn across the path to an attack would increase the complexity of the effort, Mueller argued. Terrorists would have to bribe officials in a state nuclear program to acquire the material, while avoiding a sting by authorities or a scam by the sellers. The material itself could also turn out to be bad. "Once the purloined material is purloined, [police are] going to be chasing after you. They are also going to put on a high reward, extremely high reward, on getting the weapon back or getting the fissile material back," Mueller said during a panel discussion at a two-day Cato Institute conference on counterterrorism issues facing the incoming Obama administration. Smuggling the material out of a country would mean relying on criminals who "are very good at extortion" and might have to be killed to avoid a double-cross, Mueller said. The terrorists would then have to find scientists and engineers willing to give up their normal lives to manufacture a bomb, which would require an expensive and sophisticated machine shop. Finally, further technological expertise would be needed to sneak the weapon across national borders to its destination point and conduct a successful detonation, Mueller said. Every obstacle is "difficult but not impossible" to overcome, Mueller said, putting the chance of success at no less than one in three for each. The likelihood of successfully passing through each obstacle, in sequence, would be roughly one in 3 1/2 billion, he said, but for argument's sake dropped it to 3 1/2 million. "It's a total gamble. This is a very expensive and difficult thing to do," said Mueller, who addresses the issue at greater length in an upcoming book, *Atomic Obsession*. "So unlike buying a ticket to the lottery ... you're basically putting everything, including your life, at stake for a gamble that's maybe one in 3 1/2 million or 3 1/2 billion." Other scenarios are even less probable, Mueller said. A nuclear-armed state is "exceedingly unlikely" to hand a weapon to a terrorist group, he argued: "States just simply won't give it to somebody they can't control." Terrorists are also not likely to be able to steal a whole weapon, Mueller asserted, dismissing the idea of "loose nukes." Even Pakistan, which today is perhaps the nation of greatest concern regarding nuclear security, keeps its bombs in two segments that are stored at different locations, he said (see *GSN*, Jan. 12). Fear of an "extremely improbable event" such as nuclear terrorism produces support for a wide range of homeland security activities, Mueller said. He argued that there has been a major and costly overreaction to the terrorism threat -- noting that the Sept. 11 attacks helped to precipitate the invasion of Iraq, which has led to far more deaths than the original event. Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim**,** which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen.

Terrorists don’t have the technical know-how or resources for nuclear weapons

**Umana 11 –** Felipe Umana is a contributor to Foreign Policy In Focus, from the Institute for Policy Studies. August 17, 2011, "Loose Nukes: Real Threat?" http://www.fpif.org/articles/loose\_nukes\_real\_threat

Actors seeking to acquire an atomic weapon – or the capability to produce one – generally do not have the essential training, knowledge, or materials. Nor do they generally have the necessary resources to achieve nuclear capabilities. In fact, for non-state actors, smuggling already-manufactured weapons or available materials is the only practical way to go nuclear. Terrorist organizations like Aum Shinrikyo (now known as Aleph) and al-Qaeda are typically **composed of men with little scientific training** and ersatz scientific knowledge, if any. Unless they steal blueprints, these actors can't construct a usable fissile weapon. Moreover, it's not easy to move such sensitive materials around. Anatoly Bulochnikov, director of the Center for Export Controls in Moscow, contrasted nuclear materials with mundane goods: “[These items are] not potatoes, not something you can keep anywhere.” Another hindrance is a lack of steady funds and resources. Non-state actors simply don't have the money to purchase bomb-grade nuclear material (in 1991, a kilogram of enriched uranium went for $700,000), the means to enrich uranium, or the storage facilities to contain the material.

Their ev doesn’t say nuclear terrorism will cause extinction, just that it will “alter the existence of our planet”

No threshold – no ev “slowing” strikes is enough to solve

**Yemen instability won’t cause full collapse or war – history shifts the burden of proof**

**Caton 10** Dr. Steve C. Caton is Professor of Contemporary Arab Studies in the Department of Anthropology at Harvard University. Yemen: not on the verge of collapse Posted By Steven C. Caton Wednesday, August 11, 2010 - 2:56 PM Share http://mideast.foreignpolicy.com/posts/2010/08/11/yemen\_not\_on\_the\_verge\_of\_collapse

History may provide some perspective. There has been a state or dawlah in Yemen for thousands of years, whether the Sabaean state that built Marib Dam and was the reputed homeland of the Queen of Sheba, or the Islamic state created shortly after the advent of Islam which lasted for a thousand years, or the republican state that came into being in 1962 and has lasted until the present day, despite two bitter civil wars. To be sure, the state has waxed and waned in power and contracted or expanded in territory during this history, and it has faced formidable outside opponents, beginning with the Romans and most recently with al-Qaeda, **but it has never fully collapsed** or disappeared from the scene. **It is unlikely to do so in the present in spite of arguments that the current regime is at a tipping point and about to fall apart because of an unprecedented number of seemingly intractable problems facing it** (an ever weakening economy, unsustainable water consumption, projected diminished oil reserves, conflicts between the state and certain regional populations, rampant corruption, and let us not forget al-Qaeda).

To those who would say to me, "How do you know it is not at a tipping point?" I can only respond with, "**How do you know that it is?"** and remind ourselves of the longue durée of Yemeni history.

But what does it mean to be a "weak state" in contemporary Yemen? Again, some historical perspective is helpful, though thankfully we need not go back three thousand years. When the current president of Yemen, Ali Abdullah Saleh, came to power in 1978 I remember people taking bets in the country's expatriate community that he would not last a year. Not only has he expanded his own personal power, he has managed to consolidate and broaden the state's presence in the country. In 1978, there were few military checkpoints along Yemen's highways; I could go from the capital, Sana'a, to the western town of Marib and be stopped at most two times along the way by state authorities. **Now there are over a dozen such stops and identity papers are checked. Military outposts can be seen on most mountain-tops. And there is an administrative system doing the state's business in even the most far-flung regions of the county**. Paved roads, state-run or sponsored schools, clinics, and hospitals represent a different aspect of state power and legitimacy, and perhaps they are more effective in that they penetrate into the everyday lives of people. Usually **none of this context is taken into account when the western press glibly asserts that the state can barely control the capital, let alone the hinterlands beyond it.**

**AQAP lacks the means and motive to escalate**

**Friedman 11** (Benjamin H., staff writer, “Al Qaeda's Mythical Unity” National Interest 6/6 < http://nationalinterest.org/print/blog/the-skeptics/al-qaedas-mythical-unity-5575>

The real [4] al-Qaeda is a fragmented and unmanageable movement. In the 1990s, it achieved limited success [5] in getting other jihadists to join in attacking the West. It was not managerial innovation but the U.S. invasion of Afghanistan and other governments’ pressures that destroyed the limited hierarchy al-Qaeda Central had achieved. Its scattered remnant in Pakistan controls little locally and less abroad. The leaders have cachet but lack the material incentives that real managers distribute to exercise authority. Al-Qaeda became bunches of guys [6] with diminished capability.\* The myth is destructive to counterterrorism. Because tightly-run organizations are better at mass violence than disparate movements, the myth creates needless fear that encourages overly ambitious and expensive policies, like the war in Afghanistan. The myth increases the number of enemies we face, taking focus from real ones. Most jihadist militants hate Americans but don’t try to kill us. They fight locally. Attacking them risks making them into what we fear they are and stoking nationalistic resentment that increases their popularity. My anecdotal sense is that events since 9/11 have increasingly brought commentators around to truth. Even so, the media, for simplicity’s sake, tends towards the myth. And the Obama administration, despite improving [7] upon its predecessors’ absurdly [8] broad definition of our terrorist enemies, still overstates al-Qaeda Central’s unity and control of affiliates. More importantly, U.S. policies still pay insufficient attention to the distinction among various al-Qaeda entities. Here are three recent examples of this rhetorical error and its consequences: (1) Since bin Laden’s death, U.S. officials [9], analysts [10], and [11] pundits [12] have claimed that the cache of emails found in his compound contradict recent intelligence reports downplaying his control. The emails, we are told, show that he was still running the show and that al-Qaeda Central remained potent. Last week, however, McClatchy quoted [13] more anonymous officials suggesting that to al-Qaeda types in Pakistan and beyond, bin Laden was like a “cranky old uncle” that you respectfully listen to and ignore. The Washington Post reported [14] that the emails show al-Qaeda leaders in Pakistan complaining about depleted funds, declining popularity, and CIA drones decimating their ranks. The White House seems conflicted about which view of al-Qaeda to take. It commendably wants to belittle al-Qaeda, robbing it of mystique by portraying bin Laden as pathetic and weak [15]. On the other hand, it needs the threat of a powerful al-Qaeda to justify the war in Afghanistan and other controversial policies. (2) Media reports [16] often give the impression that al-Qaeda in the Arabian Peninsula (AQAP) are the core of the militant group (Ansar al-Sharia) revolting in Yemen’s south. The implication is al-Qaeda could soon control territory for the first time. Too little attention is given to the uncertain role AQAP plays among Yemen’s militants and its limited ties to al-Qaeda Central. Bin Laden apparently asked [17] AQAP’s leader to attack Americans rather than gathering territory locally, suggesting that its commitment to attacking us may be limited. The point is not that we should ignore al-Qaeda terrorists in Yemen. But uncertainty about their role in Yemen and intent cautions against undifferentiated assaults on their leaders, let alone those of Ansar al-Sharia.

Drone prolif

1NC A2 modelling

**There is disconnect between their impact and internal link – their Fusco evidence says the plan establishes domestic checks and balances not**

**Modelling is not reverse causal**

**Boot 11** (Max Boot, Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations in New York, leading military historian and foreign-policy analyst, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, October 9, 2011, http://www.commentarymagazine.com/2011/10/09/drone-arms-race/)

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

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

**The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example.** In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

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

**Lewis 11** (Michael W. Lewis, professor of international law and the law of war at Ohio Northern University School of Law, former Navy fighter pilot, and coauthor of ‘The War on Terror and the Laws of War: A Military Perspective,’ “Unfounded Drone Fears,” Los Angeles Times, October 17, 2011, http://articles.latimes.com/2011/oct/17/opinion/la-oe--lewis-drones-20111017)

Almost since the United States began using the unmanned aerial vehicles known as drones, their use has drawn criticism. The latest criticism, which has received considerable attention in the wake of the drone strike on Anwar Awlaki, is that America's use of drones has sparked a new international arms race.

While it is true that some other nations have begun developing their own unmanned aerial vehicles, the extent of the alarm is unjustified. Much of it rests on myths that are easily dispelled.

Myth 1: Drones will be a threat to the United States in the hands of other nations. Drones are surveillance and counter-terrorism tools; they are **not effective weapons** of conventional warfare. The unmanned aerial vehicles are slow and **extremely vulnerable** to even basic air defense systems, illustrated by the fact that a U.S. surveillance drone was shot down by a 1970s-era MIG-25 Soviet fighter over Iraq in 2002. Moreover, drones are dependent on constant telemetry signals from their ground controllers to remain in flight. Such signals can be easily jammed or disrupted, causing the drone to fall from the sky. It's even possible that a party sending stronger signals could take control of the drone. The drones, therefore, have limited usefulness. And certainly any drone flying over the U.S. while being controlled by a foreign nation could be easily detected and either destroyed or captured.

Myth 2: Terrorists could effectively use drones to strike targets that are otherwise safe. Though it would be preferable if terrorist groups did not acquire drones, the technology required to support them is not particularly advanced. If organizations such as Al Qaeda were intent on acquiring the technology, they probably could. One of the reasons Al Qaeda may not have spent the time and resources necessary to do so is that drones would be of limited value. In addition to being very vulnerable to even basic air defense systems, drones require a great deal of logistical support. They have to be launched, recovered and controlled from a reasonably large and secure permanent facility. Wherever Al Qaeda's drones landed would immediately become a target.

It is true that a small, hand-launched drone capable of delivering a small warhead over a reasonably short distance could be, like radio-controlled model airplanes, launched in a public park or other open area and flown to a target several miles away. However, the amount of explosives that such a drone can carry is very limited (at most a few pounds) and pales in comparison to the amount of explosives that can be delivered by a vehicle or even a suicide bomber. It seems likely that terrorist groups will continue to deliver their explosives by vehicle or suicide bomber.

Myth 3: The U.S. use of drones in cases such as the Awlaki killing in Yemen serves to legitimize their use by China or Russia. International law places the same restrictions on the use of drones that it places on any other use of military force. The U.S. used a drone on Yemeni territory to kill Awlaki because it was given permission to do so by the Yemeni government, and because Awlaki was an active member of an Al Qaeda affiliate who had repeatedly been involved in operations designed to kill Americans at home and abroad. With such permission, the U.S. could instead have employed special forces or a conventional airstrike.

Numerous commentators have suggested that U.S. drone use legitimizes Russian drone use in Chechnya or Chinese drone use against the Uighurs. If China or Russia were facing genuine threats from Chechen or Uighur separatists, they might be allowed under international law to use drones in neighboring states if those states gave them permission to do so. However, given the fact that Chechen separatists declared an end to armed resistance in 2009, and that the greatest concern Russians currently have with Chechnya is with the lavish subsidies that Russia is currently providing it, the likelihood of armed Russian drones over Chechnya seems **remote at best.**

Likewise, there is no Uighur separatist organization that even remotely resembles Al Qaeda. Uighur unrest has taken the form of uprisings in Urumqi and other areas, similar to the Tibetan unrest of a few years ago. The Chinese eliminated such unrest with widespread arrests and disappearances, which raised serious human rights concerns. But there has been no time in which Uighur opposition has met the threshold established by international law that would allow for the use of armed drones in response to Uighur actions.

It is important to recognize drones for what they are: slow, relatively low-tech anti-terrorism tools that would be of limited use on most modern battlefields and are particularly unsuited to use by terrorist organizations.

China driving the US out of Asia is key to stability

**Steinbock 13** - Senior ASLA-Fulbright Scholar @ New York University [Dr. Dan Steinbock (Expert on the economic, political and strategic aspects of the nascent multipolar world), “Two Visions: U.S. and Chinese Rebalancing in Asia,” EconoMonitor, October 14th, 2013, pg. http://www.economonitor.com/blog/2013/10/two-visions-u-s-and-chinese-rebalancing-in-asia/#sthash.m4yEgivO.dpuf

Today, the United States is no longer the dominant economic contributor in the region. Nonetheless, Washington hopes to **restore its primacy** in Asia to **counterbalance China**’s role.

In turn, from China’s standpoint, U.S. rebalancing translates to **de facto containment policies** vis-à-vis America’s old allies (Japan, Australia), new partners (India) and new military partnerships with emerging ASEAN nations (e.g., the Manila Declaration, cooperation with Vietnam).

Indeed, the two pivots toward Asia have a very different approach to regional cooperation and the South China Seas disputes.

U.S. rebalancing in Asia

Indeed, the buildup of U.S. forces in Asia has intensified since 2011. In June 2012, at Shangri-La Dialogue in Singapore, an annual meeting of regional defense ministers and security experts, U.S. Defense Secretary Leon Panetta said that America’s combat ships in Asia would be doubled to 60 percent by 2020. Further, some military scenarios (e.g., the so-called AirSea Battle plan) have identified China as a kind of a hostile hegemon in the region – in a way that has divided even Pentagon’s leadership.

The most recent strategic moves toward U.S. rebalancing in the region include the new U.S.-Japanese agreement to broaden the bilateral military alliance. It was signed only a few days ago during a joint visit by Secretary of State John Kerry and Defense Secretary Chuck Hagel in a meeting with their Japanese counterparts. It reflects the US’ increased military, economic and diplomatic focus on Asia.

Most importantly, the deal comes at a time when the Japanese government is seeking to greatly enhance its own military capabilities and to revise its pacifist Constitution, drafted after World War II. Prime Minister Shinzo Abe plans to increase Tokyo’s military budget by 3 percent this year. As a result, Japan’s this year’s defense budget will be highest since the end of the Cold War, despite Japan’s huge and soaring debt burden.

Since Prime Minister Shinzo Abe was elected at the end of last year, he has revived Japan’s efforts to enhance its military capabilities. Under its Constitution, Japan has been constrained since World War II from using military force for purposes beyond basic self-defense, which Abe hopes to change. These efforts have become complicated by Japan’s increasingly tense relations with nearby South Korea and China.

A year ago, Tokyo also decided to “nationalize” a group of disputed, uninhabited islands in the East China Sea. Meanwhile, China is Japan’s number one trading partner by a large margin, whereas Japan is China’s second-largest source of foreign trade, after the U.S.

In brief, while the U.S. rebalancing in Asia is motivated by efforts to accelerate trade and investment, its **primary focus**, at least currently**, is military.**

China’s rebalancing in Asia

China, too, is rebalancing its foreign policy in the region. But its approach is different.

In the past, Chinese foreign ministers have been U.S. or Russia experts. Now, the emphasis is no shifting (back) to Asia and Asia-Pacific. New foreign policy is reflected by a slate of new appointments, including those of senior diplomats Yang Jiechi, Wang Yi, and Cui Tiankai.

In the past, Washington and Brussels have sought to nurture relations with Asia vis-à-vis special relations with the ASEAN’s more advanced but small members, such as Singapore. In contrast, President Xi made his opening in Indonesia whose huge population accounts for 40 percent of the ASEAN total. While the West prefers advanced-economy partners to focus on trade and defense, Chinese approach favors emerging-economy cooperation stressing trade with economic development.

During his maiden Southeast Asian visit, President Xi Jinping addressed the Indonesian parliament proposing joint efforts with countries in the region to develop a new ”maritime silk road.” What the speech underscored were the economic opportunities for cooperation between China and the 10 member nations of the ASEAN. This initiative holds potential for great opportunities for **regional development**. In particular, setting up an **Asian investment bank** to support regional connectivity construction is **vital to Indonesia**, which has drawn up a $400 billion plan for its domestic infrastructure development.

Further, President Xi told the Indonesian lawmakers China would strive to ensure the trade volume with ASEAN countries reaches US$1 trillion by 2020. He also restated the proposal to establish a regional infrastructure investment bank, an initiative he raised during a visit to the region in March.

Following President Xi’s opening, Premier Li Keqiang outlined the blueprint for a “diamond decade” of relations between China and ASEAN, at the China-ASEAN leaders meeting in Brunei, Premier Li proposed a treaty on good-neighborliness, friendship and cooperation between China and the ASEAN.

In addition to a treaty on good-neighborliness, friendship and cooperation, Premier Li advocated the need to boost security exchanges and cooperation, speaking for bilateral trade to 1 trillion U.S. dollars by 2020, an Asian infrastructure investment bank as a platform for financing intra-ASEAN and regional inter-connectivity projects, cooperation to enhance regional financial cooperation and immunity to risks, promotion of maritime cooperation, and exchanges in culture, technology, environmental protection.

The strategic partnership between China and ASEAN was initiated a decade ago. However, the proposals by President Xi and Premier Li could broaden and deepen the relationship by a magnitude – in order to support, secure and boost regional cooperation between China and the ASEAN.

Cooperation versus rearmament

A week ago, President Barack Obama canceled his appearance at the Asia-Pacific Economic Cooperation [APEC] conference in Bali and long-planned visits to Malaysia and the Philippines, because of the fiscal standoff in Washington. That, in turn, raised questions about the White House’s stated goal of pivoting its foreign policy toward Asia. Replacing President Obama at the APEC, Secretary of State John Kerry assured his Asian audience that the U.S. fiscal standoff was actually “an example of the robustness of our democracy.”

Clearly, President Obama had no other option but to focus on the domestic priorities. But America’s pivot toward Asia is not just about the presence or absence of the U.S. president in certain vital summits in Asia. What’s far more important is the way the U.S. and China are pivoting to Asia is very different.

What emerging Asia needs is broader and deeper economic cooperation through security, trade and investment, and shared prosperity. What Asia does not need is a **21st century Cold War**.

1nc – at: china drones

**No impact to Chinese drones --- not advanced enough, no manpower, and no experience**

**Zhou 12** (Dillon Zhou, graduate of the International Relations Program at the University of Massachusetts Boston, “China Drones Prompts Fears of a Drone Race With the US,” Policymic, December 2012, http://www.policymic.com/articles/19753/china-drones-prompt-fears-of-a-drone-race-with-the-us)

There are several facts that provide some solace to the U.S. as China's drones are far from being a real challenge to the American drone program.

First, the Chinese drones are nowhere as sophisticated as U.S. drones in their range and proper hardware for optic systems and motors to power the "dragons." The DSB report notes that the U.S. technical systems are almost unrivaled at present.

Second, China lacks the manpower to properly support their new fleet of drones. Whereas the U.S. has been training and honing a large force of UAV pilots, technicians and operation managers for 15 years.

Finally, the U.S. drone program is about 20 years ahead of the Chinese program. The current models on show are considered to be prototypes and not finished products. The Chinese also have not had a chance to gain real experience with their drones during real operation.

**Even with the tech, China won’t use drones dangerously --- they fear international backlash and setting a precedent for US drone use in East Asia**

**Erickson and Strange 13** (Andrew Erickson, associate professor at the Naval War College, Associate in Research at Harvard University's Fairbank Centre, Austin Strange, researcher at the Naval War College's China Maritime Studies Institute, graduate student at Zhejiang University, “China Has Drones. Now How Will it Use Them?” Foreign Affairs, May 29, 2013, http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html)

Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the United States could eventually exploit. For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry.

The internal link is not reverse causal – their impact ev says Japan will provoke a conflict

**Eland 7/29**/13, Ivan, Senior Fellow and Director of the Center on Peace & Liberty, The Independent Institute, “Why U.S. Policy in East Asia is Dangerous”, http://www.huffingtonpost.com/ivan-eland/why-us-policy-in-east-asi\_b\_3671931.html

Even in the more advanced regions during the Cold War, was it rational for the United States to protect these nations with an American nuclear umbrella-- one that ultimately pledged to incur destruction of American cities to save London, Paris, Berlin, and Tokyo from the communist hordes? A communist takeover of any of these places would have not have been a good day, but incineration of American cities would have been even worse. **Yet long after the Cold War is over, the American nuclear shield extends even wider to include a number of countries in Europe and East Asia.** In East Asia, the American nuclear backstop protects Japan, South Korea, Australia, and the Philippines formally, and Taiwan and other nations informally. **But what if a local conflict between the Chinese and a U.S. ally inadvertently escalates into a nuclear stand off between China and the United States? And it easily could**. A rising China is an ally of South Korea's nemesis, North Korea. China also claims Taiwan and has disputes with U.S. allies over islands in the South China Sea (with the Philippines) and in the East China Sea (with Japan). In the last case, China has recently upgraded its coast guard. Meanwhile, **a new conservative government in Japan is making noises about scrapping Japan's pacifist constitution and obtaining offensive weapons, and recent dangerous confrontations have occurred between Japanese and Chinese forces near the disputed islands.** **With a new hawkish and more aggressive government, Japan--like a mouthy little brother standing behind his huge sibling and taunting the opponent--could easily drag the United States into an undesired war with nuclear-armed China. During World War I, outdated alliances dragged the major European powers into a cataclysmic war that nobody wanted. Outdated Cold War alliances could do the same to the United States now in East Asia.**

China will not risk war—economics and diplomacy

**Fravel 12**—Associate Professor of Political Science and member of the Security Studies Program at MIT. Taylor is a graduate of Middlebury College and Stanford University, where he received his PhD. He has been a Postdoctoral Fellow at the Olin Institute for Strategic Studies at Harvard University, a Predoctoral Fellow at the Center for International Security and Cooperation at Stanford University, a Fellow with the Princeton-Harvard China and the World Program and a Visiting Scholar at the American Academy of Arts and Sciences(M. Taylor, “All Quiet in the South China Sea,” March 22nd, 2012, <http://www.foreignaffairs.com/articles/137346/m-taylor-fravel/all-quiet-in-the-south-china-sea>)

Little noticed, however, has been China's recent adoption of a new -- and much more moderate -- approach. The primary goals of the friendlier policy are to restore China's tarnished image in East Asia and to reduce the rationale for a more active U.S. role there.

Beijing is also **unlikely** to be more assertive if that sustains Southeast Asian countries' desires to further deepen ties with the United States.

The first sign of China's new approach came last June, when Hanoi dispatched a special envoy to Beijing for talks about the countries' various maritime disputes. The visit paved the way for an agreement in July 2011 between China and the ten members of the Association of Southeast Asian Nations (ASEAN) to finally implement a declaration of a code of conduct they had originally drafted in 2002 after a series of incidents in the South China Sea. In that declaration, they agreed to "exercise self-restraint in the conduct of activities that would complicate or escalate disputes."

Since the summer, senior Chinese officials, especially top political leaders such as President Hu Jintao and Premier Wen Jiabao, have repeatedly reaffirmed the late Deng Xiaoping's guidelines for dealing with China's maritime conflicts to focus on **economic cooperation** while delaying the final resolution of the underlying claims. In August 2011, for example, Hu echoed Deng's approach by stating that "the countries concerned may put aside the disputes and actively explore forms of common development in the relevant sea areas."

Authoritative Chinese-language media, too, has begun to underscore the importance of cooperation. Since August, the international department of People's Daily (under the pen name Zhong Sheng) has published several columns stressing the need to be less confrontational in the South China Sea. In January 2012, for example, Zhong Sheng discussed the importance of "pragmatic cooperation" to achieve "concrete results." Since the People's Daily is the official paper of the Central Committee of the Chinese Communist Party, such articles should be interpreted as the party's attempts to explain its new policy to domestic readers, especially those working lower down in party and state bureaucracies.

In terms of actually setting aside disputes, China has made progress. In addition to the July consensus with ASEAN, in October China reached an agreement with Vietnam on "basic principles guiding the settlement of maritime issues." The accord stressed following international law, especially the UN Convention on the Law of the Sea. Since then, China and Vietnam have begun to implement the agreement by establishing a working group to demarcate and develop the southern portion of the Gulf of Tonkin near the disputed Paracel Islands.

China has also initiated or participated in several working-level meetings to address regional concerns about Beijing's assertiveness. Just before the East Asian Summit last November, China announced that it would establish a three billion yuan ($476 million) fund for China-ASEAN maritime cooperation on scientific research, environmental protection, freedom of navigation, search and rescue, and combating transnational crimes at sea. The following month, China convened several workshops on oceanography and freedom of navigation in the South China Sea, and in January it hosted a meeting with senior ASEAN officials to discuss implementing the 2002 code of conduct declaration. The breadth of proposed cooperative activities indicates that China's new approach is probably more than just a mere stalling tactic.

Beyond China's new efforts to demonstrate that it is ready to pursue a more cooperative approach, the country has also halted many of the more assertive behaviors that had attracted attention between 2009 and 2011. For example, patrol ships from the Bureau of Fisheries Administration have rarely detained and held any Vietnamese fishermen since 2010. (Between 2005 and 2010, China detained 63 fishing boats and their crews, many of which were not released until a hefty fine was paid.) And Vietnamese and Philippine vessels have been able to conduct hydrocarbon exploration without interference from China. (Just last May, Chinese patrol ships cut the towed sonar cable of a Vietnamese ship to prevent it from completing a seismic survey.) More generally, China has not obstructed any recent exploration-related activities, such as Exxon's drilling in October of an exploratory well in waters claimed by both Vietnam and China. Given that China retains the capability to interfere with such activities, its failure to do so suggests a conscious choice to be a friendlier neighbor.

The question, of course, is why did the Chinese shift to a more moderate approach? More than anything, Beijing has come to realize that its assertiveness was harming its broader foreign policy interests. One principle of China's current grand strategy is to maintain good ties with great powers, its immediate neighbors, and the developing world. Through its actions in the South China Sea, China had undermined this principle and tarnished the cordial image in Southeast Asia that it had worked to cultivate in the preceding decade. It had created a shared interest among countries there in countering China -- and an incentive for them to seek support from Washington. In so doing, China's actions provided a strong rationale for greater U.S. involvement in the region and inserted the South China Sea disputes into the U.S.-Chinese relationship.

By last summer, China had simply recognized that it had **overreached**. Now, Beijing wants to project a more benign image in the region to prevent the formation of a group of Asian states allied against China, reduce Southeast Asian states' desire to further improve ties with the United States, and weaken the rationale for a greater U.S. role in these disputes and in the region.

So far, Beijing's new approach seems to be working, especially with Vietnam. China and Vietnam have deepened their political relationship through frequent high-level exchanges. Visits by the Vietnamese Communist Party general secretary, Nguyen Phu Trong, to Beijing in October 2011 and by the Chinese heir apparent, Xi Jinping, to Hanoi in December 2011 were designed to soothe spirits and protect the broader bilateral relationship from the unresolved disputes over territory in the South China Sea. In October, the two also agreed to a five-year plan to increase their bilateral trade to $60 billion by 2015. And just last month, foreign ministers from both countries agreed to set up working groups on functional issues such as maritime search and rescue and establish a hotline between the two foreign ministries, in addition to starting talks over the demarcation of the Gulf of Tonkin.

Even if it is smooth sailing now, there could be choppy waters ahead. Months of poor weather have held back fishermen and oil companies throughout the South China Sea. But when fishing and hydrocarbon exploration activities resume in the spring, incidents could increase. In addition, China's new approach has raised expectations that it must now meet -- for example, by negotiating a binding code of conduct to replace the 2002 declaration and continuing to refrain from unilateral actions.

Nevertheless, because the new approach reflects a strategic logic, it might endure, signaling a more significant Chinese foreign policy shift. As the 18th Party Congress draws near, Chinese leaders want a stable external environment, lest an international crisis upset the arrangements for this year's leadership turnover. And even after new party heads are selected, they will likely try to avoid international crises while consolidating their power and focusing on China's domestic challenges.

China's more moderate approach in the South China Sea provides further evidence that China will seek to **avoid** the type of **confrontational policies** that it had adopted toward the United States in 2010. When coupled with Xi's visit to Washington last month, it also suggests that the United States need not fear Beijing's reaction to its strategic pivot to Asia, which entails enhancing U.S. security relationships throughout the region. Instead, China is more likely to rely on conventional diplomatic and economic tools of statecraft than attempt a direct military response. Beijing is also unlikely to be more assertive if that sustains Southeast Asian countries' desires to further deepen ties with the United States. Whether the new approach sticks in the long run, it at least demonstrates that China, when it wants to, can recalibrate its foreign policy. **That is good news for stability in the region**.

No military aggression

**Goldstein 11**—Professor and Director of the China Maritime Studies Institute @ US Naval War College [Dr. Lyle J. Goldstein, “Resetting the US–China Security Relationship,” Survival | vol. 53 no. 2 | April–May 2011 | pp. 89–116]

Weighed in the aggregate, China’s rise remains a peaceful process, and the record to date should engender **significant confidence**. Beijing has not resorted to a significant use of force against another state in more than **three decades**. Its deployments of troops as UN peacekeepers to hot spots such as Lebanon and the Democratic Republic of the Congo have played a helpful role, as have the counter-piracy operations of its fleet in the Gulf of Aden. When dealing with weak and occasionally unstable states on its borders, such as Kyrgyzstan or Tajikistan, Beijing has **not resorted to military intervention**, nor even flexed its military muscles to gain advantage. Chinese maritime claims, whether in the South or the East China seas, are generally being enforced by **unarmed patrol cutters**, a clear signal that Beijing does not seek escalation to a major crisis on these matters. Contrary to the perception that China’s senior military officers are all irreconcilable hawks, one influential People’s Liberation Army Navy (PLAN) admiral recently said in an interview, with reference to lessons learned from recent border negotiations on China’s periphery: ‘If there are never any concessions or compromises, there is simply no possibility of reaching a breakthrough in border negotiations.’2 pg. 90

# \*\*\*Adventurism\*\*\*

# Read

**AND, Botched withdrawal shatters NATO’s credibility and encourages Russian aggression.  NASA computer models and climatologist conclude that will cause extinction**

Starr 10—Director of Clinical Laboratory Science Program @ University of Missouri [Steven Starr (Senior scientist @ Physicians for Social Responsibility.), “The climatic consequences of nuclear war” | Bulletin of the Atomic Scientists, 12 March 2010, Pg. <http://www.thebulletin.org/web-edition/op-eds/the-climatic-consequences-of-nuclear-war>]

This isn't a question to be avoided. Recent scientific studies have found that a war fought with the deployed U.S. and Russian nuclear arsenals would *leave Earth* virtually *uninhabitable*. In fact, NASA computer models have shown that even a "successful" *first strike*by Washington or Moscow would inflict catastrophic environmental damage that would make agriculture impossible and cause mass starvation. Similarly, in the January Scientific American, Alan Robock and Brian Toon, the foremost experts on the climatic impact of nuclear war, warn that the environmental consequences of a "regional" nuclear war would cause a global famine that could kill one billion people.

# Link – Wall

#### Demanding information for oversight is unconstitutional. It violates executive privilege

Kelly 93—Judge Advocate General's Corps @ US Army [Major Michael P. Kelly (JD from University of California-Davis (87) and Graduate of The Judge Advocate General's School (92), “Fixing The War Powers,” Military Law Review, 141 Mil. L. Rev. 83, Summer 1993]

(iii)S ection 4(b): Delivery of Information to Congress.- Given the firmly entrenched doctrine of "executive privilege,"5 6 the provision requiring delivery of certain information to Congress also is arguably unconstitutional. Executive privilege is particularly strong in the context of national security.57 Congress is simply at the mercy of executive discretion concerning the information received under this provision in the WPR. Moreover, courts are unlikely to resolve any contest over this military information. Pg. 94

#### 5. Questionable constitutionality of the plan risks political fight and presidential circumvention.

Kelly 93—Judge Advocate General's Corps @ US Army [Major Michael P. Kelly (JD from University of California-Davis (87) and Graduate of The Judge Advocate General's School (92), “Fixing The War Powers,” Military Law Review, 141 Mil. L. Rev. 83, Summer 1993]

The WPR's failure is instructive, and two important lessons should not be lost to time. First, any new legislation that adopts and maintains an adversative nature probably will fail. The war powers arena is a constitutional "twilight zone,"79 and the court's abdication means that few of the constitutional issues will be settled definitely- except perhaps unintentionally by way of a collateral adjudication, as in Immigration & Naturalization Service v. Chadha.80 It is time to explore alternatives to legislation-such as "constitutional understandings."8 1 Once the political branches achieve a cooperative, accommodative consensus, Congress can consider enacting a "legal" remedy to the war powers dilemma.

Second, the political branches must come to some basic agreement about what the framers intended. This second lesson is really a prerequisite to the first, because this basic agreement must be reached before any cooperative, accommodative consensus is possible. The war powers arena has generated endless constitutional debate. The WPR's questionable constitutionality has fueled continuing political conflict between the branches and presidential circumvention of the WPR. The framer's intent is illusive, but discernable by using sound methodologies. Although the framers' intent cannot be determined with complete certainty, it is sufficient if the political branches can agree, thereby providing a common ground and an essential point of departure for any effective solution. Pg. 97-98

#### 6. Independently, this means they don’t solve—Presidents will resolve any doubt about constitutionality with noncompliance

Kelly 93—Judge Advocate General's Corps @ US Army [Major Michael P. Kelly (JD from University of California-Davis (87) and Graduate of The Judge Advocate General's School (92), “Fixing The War Powers,” Military Law Review, 141 Mil. L. Rev. 83, Summer 1993

(b) Critical Operative Provisions That Are Arguably Unconstitutional.-The questionable constitutionality of most law is not as problematic as it is with regard to the WPR. Its adversative nature exacerbates the slightest issue of constitutionality. Presidents repeatedly have resolved all doubt in favor of noncompliance. 4 2 Moreover, the courts repeatedly have declined to exercise judicial review43 in the war powers arena. Thus, the constitutionality of the WPR is of particular importance to its effectiveness. Pg. 91

# Solvency – Wall

#### President will not abide. Congress will inevitably fall in line

Bell 4—Professor of Political Science @ Randolph-Macon College [Lauren Cohen Bell, “Following the Leaders or Leading the Followers? The US President's Relations with Congress,” Journal of Legislative Studies, Summer/Autumn, 2004, Vol. 10 Issue 2/3, pg. 193-205]

As noted ahove. Article I of the Constitution grants to the Congress the sole authority to make declarations of war. However, the president has the power to command US military personnel based on the provisions of Article II. Over the course of US history, the commander-in-chief power has been interpreted to permit presidents to commit troops to areas of conflict even in the absence of a formal declaration of war. Today, formal declarations of war are the exception rather than the rule; separation of powers expert Louis Fisher notes that through 1991 only five wars had ever been declared and that "in only one (the War of 1812) did members of Congress actually debate the merits of entering into hostilities'.'^ As Samuel Kemell and Gary Jacohson note: "[SJince 1989 U.S. armed forces have been almost continuously engaged somewhere in the world.''^

This was not always the case. Fisher points out that there is evidence of presidential restraint with regard to war-making by relating the story of President Grover Cleveland (1885-89; 1893-97), who refused to mobilise troops for a conflict with Cuba despite Congress' intention to declare war. In Fisher's account, Cleveland told the Congress: 'I will not mobilize the army ... I happen to know that we can buy the island of Cuba from Spain for $100,000,000, and a war will cost vastly more than that and will entail another long list of pensioners. It would be an outrage to declare war.''^ Yet, in the modem history of presidential-congressional relations, it is much more frequently the president who has mobilised American troops without consultation with the Congress and in the absence of a formal declaration of war. And it is clear that even when we consider Cleveland's actions, the president has been far more important to the conduct of American foreign policy than the Congress.

This circumstance led, in the aftermath of the war in Vietnam, to congressional passage of the War Powers Resolution in 1973. The War Powers Resolution (WPR) was an attempt to constrain presidential discretion with regard to committing troops oversees. Section 3 of the WPR requires that 'The president in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances".' Section 4 of the WPR gives the president 48 hours to provide a report to both Chambers of the Congress detailing the reason for committing troops, the authority under which he committed them and his prediction conceming the duration of the troops' engagement abroad.'^ Once the president has informed the Congress of the commitment of troops, and in the event that the Congress does not declare war, the WPR requires the president to end the engagement within 60 days, with the possibility of an additional 30 days' commitment in the event that the president certifies to the Congress that the additional time is necessary.^\*\* According to the Congressional Research Service (CRS), the research branch of the Library of Congress, since the War Powers Resolution was enacted over President Richard M. Nixon's 1973 veto, it has been invoked on 107 occasions (to 23 July 2003).^' Figure 2 illustrates both the absolute number of times as well as the rate of each president's exercise of war powers. As Figure 2 demonstrates, the rate of War Powers Resolution uses has continually increased since it took effect in 1974.

A reading of the WPR would seem to clarify the relationship between Congress and the president with regard to the exercise of national war powers. A close reading would also suggest that the president and Congress share war-making power. Yet no president has ever recognised the WPR as a constraint on his ability to move American armed forces around the globe or keep them in place as long as necessary. Moreover, presidents rarely abide by the provisions of the Resolution that require their consultation with the Congress. As CRS researcher Richard F. Grimmett notes, 'there has been very little consultation with Congress under the Resolution when consultation is defined to mean seeking advice prior to a decision to introduce troops'.^" And while the Congress has, from time to time, expressed its sense that troops should be withdrawn from conflicts or engagements abroad, in truth the Congress has relatively few options for dealing with a president that violates the WPR. Indeed, as the late presidency scholar Aaron Wildavsky notes, the Congress is much less likely to challenge presidents" foreign policy actions than it is willing to challenge presidents" domestic policy actions.'^'^ This is because presidents oversee an enormous national security apparatus and because the constituents represented by members of Congress rarely hold strong opinions on matters of foreign policy. As a result, congressional challenges to violations of the WPR consist mostly of holding oversight hearings and passing symbolic resolutions.''\* Moreover, once troops are committed abroad. Congress almost always falls in line with the president’s vision of the scope of the conflict and the need for a military presence. The members of Congress become reluctant to challenge a president who has troops on the ground and typically acquiesce to the president’s wishes when it comes to provisions for support. In this way, the president is able to exercise some leadership over the Congress, whose members generally find it politically expedient to follow the president on matters pertaining to the military or the conduct of America's relations with other countries. Pg. 200-202

#### History is on our side. The WPR is ineffective

Keynes 92—Professor of Political Science @ Pennsylvania State University [Keynes, Edward, “War Powers Resolution: A Bad Idea Whose Time Has Come and Gone,” University of Toledo Law Review, Vol. 23, Issue 2 (Winter 1992), pp. 343-362]

Despite various presidents' avoidance of the Resolution's formal reporting requirements, analysis and debate on the measure's efficacy and constitutionality during the past. eighteen years have focused on the reporting and triggering mechanisms in section 4(a)(1) and the legislative veto in section 5(b), permitting Congress to order the President to withdraw armed forces from combat by concurrent resolution.2 9 This obsessive focus on the reporting-triggering mechanism and the constitutionality of the legislative veto has obscured the Resolution's underlying rationales and has inhibited an evaluation of its overall effectiveness in promoting joint congressional-presidential participation in and responsibility for imtiating, conducting, and terminating military hostilities. By enacting the War Powers Resolution, Congress hoped to redress the balance between itself and the President when deciding to transform the nation from a condition of peace to one of war or hostilities and to assure that such decisions would evoke the public support necessary to wage war effectively 30 Given these objectives, the Resolution attempts to create the conditions for consultation and decision-making prior to committing U.S. armed forces to combat or to regions where hostilities are imminent. 3'

Although U.S. presidents have submitted eighteen reports to Congress since 1973 (Ford submitted three, Carter one, and Reagan fourteen), these episodes do not reveal the pattern of prior consultation and joint decisionmaking that the Resolution's authors hoped their Resolution would achieve. 32 In ten of twelve instances in which the President dispatched U.S. armed forces abroad without reporting to Congress, the number of troops and the duration of operations were too limited to test the Resolution's efficacy 3 The dispatch of military advisors to El Salvador 34 and the conduct of military training exercises in Honduras" raised serious foreign-policy questions, but Congress did not deal with these concerns within the framework of the War Powers Resolution. As a cursory analysis of the eighteen decisions that Presidents Ford, Carter, Reagan, and Bush communicated to Congress indicates, presidential reporting has not achieved the hoped-for advance consultation and joint decision-making.

As the first four episoaes (the Da Nang sea-lift, the evacuations from Saigon and Cambodia, and the Mayaguez rescue) reveal, President Ford informed Congress either shortly before, during, or immediately after military operations.36 While the State Department's Legal Advisor, Monroe Leigh, claimed that the President's notification met the War Powers Resolution's reporting and consultation requirements, "7 the timing and perfunctory nature of the reports do not represent either consultation or joint decision-making. The President merely informed Congress that military operations were underway or that they were imminent. However, the limited scope and duration of the operations as well as their non-offensive nature suggest that they were within the scope of the President's defensive authority as commander in chief.3 "

President Jimmy Carter failed to inform or consult Congress before the ill-fated attempt to rescue American hostages from the U.S. embassy in Teheran on April 24, 1980.19 Arguing that prior consultation could jeopardize the security of the rescue operation, Carter simply ignored the section 3 requirement of reporting to Congress "in every possible instance" in which the President introduces troops into hostilities or in which hostilities are imminent.4 0 Arguably, since the taking of hostages is an aggressive act under international law, one could describe the President's conduct as defensive and, therefore, within the zone of authority that the Constitution leaves to presidential discretion.4 '

President Ronald Reagan's use of armed forces in Lebanon, the dispatch of naval forces to protect reflagged Kuwaiti tankers in the Persian Gulf, and aerial attacks against Libya indicate a pattern of presidential initiative and congressional deference, 42 with the possible exception of Congress' decision to invoke section 4(a)(1) of the Resolution in September, 1983 On July 6, 1982, President Reagan announced his intention to send a contingent of Marines to Beirut, Lebanon, as part of a multinational peacekeeping force. 43 After withdrawing this first contingent on September 10, the President dispatched a second contingent on September 20, 1982. 44 While Clement Zaoiocki (D Wisc.), Chairman of the House Foreign Affairs Committee, expressed his concerns in writing to the President, Congress did not invoke the War Powers Resolution until September of 1983. 4 1 As a response to a terrorist attack on the Marines' barracks on August 30, 1983, Congress enacted the Multinational Force in Lebanon Resolution ("MFLR") on September 29 "

Although Reagan did not report to Congress under section 4(a)(1), after prolonged negotiations, the MFLR stated that section 4 of the War Powers Resolution had been operative since August 29 47 Congress also authorized the Marines' continuing participation for eighteen months.4 8 While President Reagan never acknowledged that section 4 had become operative, he did sign the MFLR into law 49 However, he denied that his authority to dispatch armed forces for peacekeeping purposes could be "infringed by statute." 50 Referring to the MFLR, Reagan rejected the interpretation that his signature acknowledged congressional power "to revise the President's constitutional authority to deploy United States Armed Forces.''"

Since 1973, the War Powers Resolution's consulting, reporting, and triggering provisions have not appreciably altered the pattern of presidential initiative and congressional deference to various presidents' decisions to use military force as an instrument of U.S. foreign policy Following the U.S. defeat in Vietnam, Gerald Ford's brief term in office, and Jimmy Carter's failure in Iran, Ronald Reagan's decision to ignore or circumvent the War Powers Resolution's consulting and reporting requirements could be interpreted as a deliberate attempt to challenge congressional authority or, alternatively, as a successful strategy for restoring presidential power and U.S. military credibility Were it not for the revelations of covert arms transfers to Iran and illicit aid for the Nicaraguan Contras, Reagan's reassertion of presidential power in military and foreign affairs might have gone completely unchallenged. Despite these misadventures, Ronald Reagan's successful restoration of the presidency enabled George Bush to take unparalleled initiatives in invading Panama and dispatching armed forces to the Persian Gulf. Pg. 252-353

#### 3. Every president—including Obama—has adhered to a constitutional framework that rejects congressional intrusion.

Garrison 12—Professor of Criminal Justice at Kutztown University [Dr. Arthur H. Garrison, “History of Executive Branch Legal Opinions on the Power of the President as Commander-in-Chief from Washington to Obama,” Cumberland Law Review, Vol. 43, Issue 3 (2012-2013), pp. 375-494]

IV. CONCLUSION

Historically the State Department, 388 various Attorneys General, and the OLC, from the Washington through Obama Administrations, have issued formal and informal opinions supporting the broadest interpretation of the Article II Commander in Chief power of the President. Almost from the inception of the Constitution, presidents have been advised that they have plenary, if not exclusive, power over foreign policy and the use of military force with and without prior congressional approval. Historically, Congress has exercised a secondary role in the face of presidential decisionmaking regarding American foreign policy and has never successfully asserted that the power to declare war belonged primarily to the Legislative branch. The power to declare war has been a different power than the power to make war or respond to war inflicted upon the United States.3 From Lincoln to the modern Presidency, all presidents have asserted the power to deploy the military, even if that could entail military combat to protect American interests, and that congressional approval is not constitutionally required for such deployments to be lawful 390 The Obama Administration continued this traditional view and has continued to defend the theory of plenary power in foreign and military affairs as Commander in Chief.39' pg. 478-479

#### 4. Obama will fight to preserve his presidential authority and maximum policy flexibility. Their take outs underestimate the institutional incentives

Dickinson 11—Professor of political science @ Middlebury College. [Dr. Matthew Dickinson (Expert on presidential powers with a PhD from Harvard), “Will You End Up in Guantanamo Bay Prison?,” Presidential Power, December 3, 2011 pg. http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/

Despite the overwhelming Senate support for passage (the bill passed 93-7 and will be reconciled with a House version. Senators voting nay included three Democrats, three Republicans and one independent), however, President Obama is still threatening to veto the bill in its current form.  However, if administration spokespersons are to be believed, Obama’s objection is based not so much on concern for civil liberties as it is on preserving the president’s authority and flexibility in fighting the war on terror. According to White House press secretary Jay Carney, “Counterterrorism officials from the Republican and Democratic administrations have said that the language in this bill would jeopardize national security by restricting flexibility in our fight against Al Qaeda.”  (The administration also objects to language in the bill that would restrict any transfer of detainees out of Guantanamo Bay prison for the next year.)  For these reasons, the President is still threatening to veto the bill, which now goes to the Republican-controlled House where it is unlikely to be amended in a way that satisfies the President’s concerns.  If not, this sets up an interesting scenario in which the President may have to decide whether to stick by his veto threat and hope that partisan loyalties kick in to prevent a rare veto override.

The debate over the authorization bill is another reminder of a point that you have heard me make before: that when it comes to national security issues and the War on Terror, President Obama’s views are much closer to his predecessor’s George W. Bush’s than they are to candidate Obama’s.  The reason, of course, is that once in office, the president—as the elected official that comes closest to embodying national sovereignty—feels the pressure of protecting the nation from attack much more acutely than anyone else. That pressure drives them to seek maximum flexibility in their ability to respond to external threats, and to resist any provision that appears to constrain their authority.  This is why Obama’s conduct of the War on Terror has followed so closely in Bush’s footsteps—both are motivated by the same institutional incentives and concerns.

The Senate debate, however, also illustrates a second point.  We often array elected officials along a single ideological line, from most conservative to most liberal. Think Bernie Sanders at one end and Jim DeMint at the other.  In so doing, we are suggesting that those individuals at the farthest ends of the spectrum have the greatest divergence in ideology.  But on some issues, including this authorization bill, that ideological model is misleading.  Instead, it is better to think of legislators arrayed in a circle, with libertarian Republicans and progressive Democrats sitting much closer together, say, at the top of the circle, joined together in their resistance to strong government and support for civil liberties.  At the “bottom” of the circle are Republicans like Graham and Democrats like Levin who share an affinity for strengthening the government’s ability to protect the nation’s security.

For Obama, however, the central issue is not the clash of civil liberties and national security—it is the relative authority of the President versus Congress to conduct the War on Terror. That explains why he has stuck by his veto threat despite the legislative compromise.  And it raises an interesting test of power. To date he has issued only two presidential vetoes, by far the lowest number of any President in the modern era. His predecessor George W. Bush issued 12, and saw Congress override four—a historically high percentage of overrides.  On average, presidential vetoes are overridden about 7% of the time. These figures, however, underplay the use of veto threats as a bargaining tool.  In the 110th (2007-08) Congress alone, Bush issued more than 100 veto threats. I’ve not calculated Obama’s veto threats, but it is easy enough to do by going to the White House’s website and looking under its Statements of Administrative Policy (SAP’s) listings. Those should include veto threats. Note that most veto threats are relatively less publicized and often are issued early in the legislative process.  This latest veto threat, in contrast, seems to have attracted quite a bit of press attention.  It will be interesting to see whether, if the current authorization language remains unchanged, Obama will stick to his guns.

#### 5. The President won’t give an inch. They fear the precedent

Atwood 7—Dean of the Hubert H. Humphrey Institute of Public Affairs @ University of Minnesota [Atwood, J. Brian, “War Powers Resolution in the Age of Terrorism,” St. Louis University Law Journal, Vol. 52, Issue 1 (Fall 2007), pp. 57-76]

Executive branch legal advisors must constantly wind their way through Scylla and Charybdis, the mythological monsters on either side of the narrow strait traversed by Ulysses. On the one side is concern over yielding any of the constitutional territory claimed by a succession of presidents. On the other is the knowledge that the consultation and reporting requirements are legally binding and that it is a lawyer's obligation to assure that one's client respects the law.

There is a deep concern in the Executive Branch that any concession to Congress on war powers will create a precedent that could erode presidential powers. Administrations take seriously legal historian Edwin Corwin's description of the Constitution as "an invitation to struggle." 50 This is especially true in areas of foreign policy and national security. As Crenson and Ginsberg observed, "Over the course of more than two centuries... successive American presidents, beginning with George Washington, have labored diligently to make their office the dominant force in American foreign and security policy and to subordinate Congress's role in the realm." 51 pg. 64

# 2NC Solvency – Pres Win

#### President will control the public interpretation of the constitution. She has a decisive communication advantage over the other branches

Crocker 11—Professor of Law @ University of South Carolina School of Law [Thomas P. Crocker, “ARTICLE: PRESIDENTIAL POWER AND CONSTITUTIONAL RESPONSIBILITY,” Boston College Law Review, 52 B.C. L. Rev 1551, November 2011]

A president's responsibility to and for the Constitution is a capacious burden. The modern president sits atop a vast military and civilian bureaucracy capable of generating laws, adjudicating disputes, and executing policy. No other governing officer has available such an immense range of resources and legal tools to shape the everyday lives of Americans. No other governing office is as visible a representation of American constitutional aspirations. Presidents shape not only specific national policies but also normative conceptions of constitutional meaning, each capable of mobilizing people and resources. n58 Moreover, through the constitutional visions they articulate, presidents seek legitimacy for the practices that further their policies. Rooted in constitutional  [\*1564] claims, new policy directions find legitimacy in their coherence with our constituted past. A political reward for winning the presidency is the ability to use the office's substantial public voice to persuade others to see the national community in a way that furthers the office holder's proffered vision. Marshaling party and patronage, the modern president has the ability to communicate to the American people through many voices utilizing all the tools of modern media communications. In turn, when the people seek government action, the president is the most direct recipient of the public's attention.

# Not Abide—Drones

#### Obama refuses to seek Congressional approval for drone use

Alston 11—Professor of Law @ New York University [Philip Alston (UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010) “The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283, 2011]

And fourth, the Obama administration has signaled that it does not regard the deployment of drones to a foreign country for the purposes of killing to require congressional approval unless the strikes reached an unspecified but clearly high threshold such as if "we were carpet-bombing a country using Predators." n136 Drones thus become an especially attractive  [\*328]  way for a President to undertake lethal operations in various countries without seeking the sort of authorization that might provoke a sustained and structured public debate.

#### Obama rejects ICRC—targets all al Qaeda members

Sterio 12—Professor of Law @ Cleveland-Marshall College of Law [Sterio, “The United States’ Use of Drones in the War on Terror: The (Il)legality of Targeted Killings Under International Law,” Research Paper 12-246, October 2012]

Thus, if Al Qaeda members were considered civilians, they could be targeted only if they participate directly in the hostilities; this requirement has not been conclusively defined in international law and each targeting operation would have to be carefully analyzed to determine whether a particular individual could be targeted. It should be noted that the Obama Administration has argued that individuals who are part of an armed group are “belligerents and, therefore, lawful targets under international law.”51 The Obama Administration has seemingly rejected the ICRC approach and has adopted a more aggressive tactic in determining which individuals can be targeted.

#### Obama embraces Bush’s view of the global battlefield—it is repackaged as uncontrolled territories

Sterio 12—Professor of Law @ Cleveland-Marshall College of Law [Sterio, “The United States’ Use of Drones in the War on Terror: The (Il)legality of Targeted Killings Under International Law,” Research Paper 12-246, October 2012]

Under the Obama Administration, the rhetoric has slightly changed: the United States is no longer engaged in a global war on terror but rather, in a war against Al Qaeda, the Taliban, and associated forces.25 However, the Obama Administration has equally followed the Bush Administration view of the global battlefield, and drone strikes have been carried out in a variety of locations, including Pakistan and Yemen. The Obama Administration believes, like the Bush Administration, that the laws of war apply to the use of drone strikes, because the United States in engaged in an armed conflict.26 Moreover, the Obama Administration has claimed that drones can be used in countries which harbor terrorist enemies, and which are unwilling or unable to control territory where such enemies are located.27 This rationale would likely exclude places like England and France from the possible definition and localization of the battlefield, but would purport to justify the use of drones in places like Pakistan and Yemen, where remote territories are hard to control and where central governments cannot claim to possess effective control.28

# 2NC AT: Syria

**Syria was a win for Obama – even though Congress would have said no, it never got the chance and the perceived threat was credible. This drove Iran to negotiate over nuclear weapons because the Syria deal disavowed regime change as a goal in US policy**

**Sorcher, 9/26**/13 – National Security Correspondent for the National Journal (Sara, “U.S. to Despots: Lose Your Weapons, Keep Your Job” National Journal,

<http://www.nationaljournal.com/magazine/u-s-to-despots-lose-your-weapons-keep-your-job-20130926>

President Obama called for military action in Syria and then stood down when strongman Bashar al-Assad promised to give up his chemical weapons. He did not use cruise missiles when Assad crossed his "red line." But this was not a sign of toothlessness telegraphed to Syria's patron, Iran—another state developing weapons of mass destruction—as some Monday-morning quarterbacks insist. Quite the opposite. Obama's narrow goal had always been to remove chemical weapons from the equation. The real message sent by diplomacy with Syria is that Washington is not secretly aiming for regime change. The move says to Tehran: Forgo your nuclear-weapon dreams and, while other unsavory behavior will be condemned, you will be left alone.

"If we get the chemical-weapons deal in Syria, and acknowledge tacitly [that] Assad will remain in power, that is a useful model for Iran," says Jon Wolfsthal, a former National Security Council director for nonproliferation. Of course, the new Iranian president, Hassan Rouhani, was elected with a mandate to solve his nation's economic woes, which is another impetus for negotiation with the West. But Obama helped his case by signaling that "they don't need weapons of mass destruction and nuclear deterrent. And by trading it away, they might get the legitimacy they crave," says Wolfsthal, now deputy director of the James Martin Center for Nonproliferation Studies.

This approach involved difficult policy trade-offs. The Syria deal sparked criticism from defense hawks who believe Obama let Assad escape military punishment for his crimes. Similarly, a deal with Iran may mean ignoring past violations and human-rights abuses. But the United States has often inked deals with rogue nations, prioritizing its national security over punishing bad behavior—with mostly positive results, especially when coupled with economic pressure and the threat of force, both still on the table in Syria and Iran.

In 2003, the U.S. invaded Iraq over its purported possession of weapons of mass destruction. Suddenly, Libya's Muammar el-Qaddafi wanted to rejoin the international community, apparently realizing his own arsenal and clandestine nuclear program were not worth the potential costs. "The U.S. willingness to negotiate sent the same signal the Syria deal did: 'We will not try to overthrow your regime; we're narrowing our demands,' " says Daniel Drezner, a professor at the Fletcher School of Law and Diplomacy at Tufts University. Qaddafi was implicitly allowed to continue his repressive dictatorship, and the model worked until he began slaughtering his own people during the Arab Spring.

Washington turned on him, which could worry rogue nations looking for security by giving up nonconventional arsenals. But realistically, American policymakers aren't exactly jonesing to use military force in support of humanitarian goals, especially in high-stakes countries such as Iran, North Korea, and Syria. "Washington tends to hold its nose and deal with regimes that it finds distasteful if those regimes are willing to abide by agreements that neutralize their most threatening behavior," says Charles Kupchan, a Georgetown University professor and the author of How Enemies Become Friends. War weariness at home also pushes a president to choose deals over principles.

Myanmar is another case in point. The military junta was working to acquire nuclear and missile technology at the same time it was repressing democracy, presenting the U.S. government with a serious proliferation concern, according to Wolfsthal. So when the country wanted its good standing back, Washington traded financial and diplomatic carrots for disarmament and political reform. Myanmar signed the Additional Protocol, the gold standard for nuclear inspections, after a short visit by Obama in 2012, and later the Comprehensive Nuclear Test Ban Treaty. The U.S. could have been a stickler and punished the junta for every illicit activity, but it compromised.

The same strategy can have beneficial results with allies. Some scientists in South Korea were discovered to be enriching uranium in 2000 in violation of the International Atomic Energy Agency safeguards system. Rather than seeking a U.N. Security Council resolution or condemning the country, Washington worked with Seoul to shut down the program. It did.

Military force can be more coercive in getting adversaries to comply when it's still just a threat. Despite Beltway dillydallying, Russia and Syria both appeared to believe that Washington would strike before agreeing to compromise. Bombing would not have stripped Assad of his chemical weapons or even his ability to use them. Similarly, it would not be easy for the U.S. to simply bomb Iran out of the nuke business without risk of retaliation. Even a Syria strike might have forced Iran (which also despises chemical weapons, dating back to the Iran-Iraq war) to abandon its recent outreach toward the United States.

# 2NC AT: Collapse

#### Afghanistan stability is at risk. Lack of clear signal of US commitment bungles the withdrawal process

Allen et al.13—Former Commander of the NATO International Security Assistance Force and U.S. Forces-Afghanistan (2011-2013) [General John R. Allen, USMC (Ret.); Michèle Flournoy (Co-Chair of the Board of Directors of the Center for a New American Security. Former Under Secretary of Defense for Policy from (2009-2012) & Michael O’Hanlon (Senior fellow in Foreign Policy Studies @ Brookings Institution), “Toward a Successful Outcome in Afghanistan,” Center for a New American Security, May 2013]

Conclusion: 2015 and Beyond

With his decision to reduce U.S. forces in Afghanistan by half between February 2013 and February 2014, President Obama answered most remaining questions about American military strength in Afghanistan through the end of the ISAF mission in December 2014. Most of the planned reductions from the current strength of some 66,000 American troops to 34,000 will occur this upcoming fall and winter. After that, the force levels will probably hold relatively steady through the Afghan elections in April and perhaps a bit longer, before the drawdown to the “Enduring Force” begins in late summer or fall of next year. Already, the U.S. force presence is focused on supporting the ANSF—American brigade combat teams and Marine regiments have been replaced now by security force assistance brigades, which essentially oversee, support and help enable the work of individual small-unit security force assistance teams working with individual Afghan units.

But there are still a number of critical questions to be worked through, some military and others political.

Specifically:

• What will the Enduring Force do and how large should it be in 2015 and beyond?

• Should the United States move straight to the Enduring Force, or have a somewhat larger “bridging force” for two to three years after 2014?

• How many allied forces are needed? What is politically realistic in various foreign capitals, especially in Europe?

• Should the ANSF be sustained at the level of 352,000 personnel beyond 2015? Say, to 2018 or 2020?

• What should come first, a clear U.S. commitment to a given Enduring Force (premised on reasonable Afghan elections and governance), or a deal on legal immunity for American troops through the so-called Bilateral Security Accord?

On the last point, we favor stating the rough contours of an American force soon. Actual deployment of any such force would of course be contingent on an acceptable immunity/status of forces agreement down the road. But clarifying the U.S. commitment would make it clear to Afghans that only their own reluctance, and specifically that of the Karzai government, stands in the way of firming up the partnership. Given Afghanistan’s historical fear of abandonment, we believe the psychology of such a clear American commitment of intent would be all to the good. It would also help persuade NATO allies to firm up their own plans. This does not mean that the United States should convey impatience to conclude a Bilateral Security Accord on a rushed basis, which would potentially weaken Washington’s negotiating position (since some Afghans wrongly believe that the United States desperately wants bases on their nation’s territory for broader regional purposes in multiple directions). But being clear about the nature of our commitment would serve American national security interests if Afghans do their part, too.

As for what the Enduring Force package should include, the United States needs several things as a matter of prudence. First, there should be enough force to advise and assist the ANSF effectively, including geographic distribution to cover the ANA corps in Kabul and the “four corners” of the country, and capacity to get below the Afghan Corps level with mobile teams if necessary, to support Afghan brigades in pre-operational preparations, and should problems develop here or there.

In the country’s north and west in particular, there should be enough enablers to keep U.S. allies in the game, as their logistics capabilities are not adequate to sustain small forces without modest U.S. help. (Germany and Italy seem ready to step up with their contributions, for example, but need assurance of certain U.S. support.) Of course the United States needs counterterrorism capabilities, for strikes within Afghanistan or in some cases along the border. Finally, for two to three years after 2014, the United States may need an additional force package of several thousand personnel to help the Afghans finish building their air force, their special operations forces and certain other enablers in medical realms, in counter-IED capability and in intelligence collection. This might be viewed as an additional bridging force, above and beyond the Enduring Force.

To achieve this, the United States should deploy an Enduring Force sized and shaped for these tasks after 2014. It is not our purpose to recommend a specific figure now, and in fact a band of numbers is probably acceptable, as suggested by some of the parameters staked out in the recent public debate on this subject—though greater risk would be associated with smaller force sizes. With clear U.S. commitments, allies would likely contribute an additional 3,000 to 5,000 uniformed personnel themselves.

Despite the near-term challenges in realms ranging from security to corruption to narcotics to difficult neighbors, we are fundamentally optimistic about Afghanistan’s mid- to long-term future. The greatest cause for hope is the next generation. Youth make up 60 percent of Afghanistan’s population, and they are being educated in unprecedented numbers. Some 180,000 students are in university this year, with nearly 10 million overall in school. Beyond the numbers, there is the passion, the commitment, the patriotism and the resilience that distinguishes this community of remarkable individuals, many of whom we have been lucky to meet and work with through the years.

In Afghanistan, many of these next-generation leaders have formed a “1400 group,” based on the Afghan Islamic calendar (it is now 1392, so 1400 is roughly the time when this new generation will begin to step up to run the nation). They include individuals who left Afghanistan during the wars of the last 30 years, as well as some who stayed; they include activists and members of civil society, as well as professionals and technocrats; they include Pashtuns and Tajiks and Hazaras and Uzbeks and others, though all tend to see themselves first and foremost as Afghans. And it is their own country that they now want to rebuild. Most encouraging, perhaps, is the growing role of women in Afghan society. Girls make up about 40 percent of this new generation of students, and women are an increasingly important voice speaking on behalf of minority rights, countering corruption and embracing the rule of law. From our experience in other post-conflict societies, countries able to assimilate women into the mainstream of society were far better able to transition into developing societies. Without the Afghan women playing a major role in the future of Afghanistan, we are not optimistic real reform can occur in this traditional society.

Despite its promise, one cannot forget, of course, that Afghanistan will remain one of the poorest, least developed and more corrupt countries in the world for years to come. But the United States and its partners, which have invested and sacrificed so much, have a chance to ensure that the land of the Hindu Kush does not return to being a safe haven for international terrorists and that it stays on the path toward greater stability, as well as human and economic development. Compared to what the international community has collectively invested already, in blood and treasure, the costs associated with this future effort to lock in gains seem a wise investment. Pg. 12-14

US is positioned well t meet it core objectives is Afghanistan

# \*\*\*Terror\*\*\*

# No Solve

# No Terror

# No Yemen Collapse

**Threat of AQAP exaggerated.**

**Aljazeera 11** (August 8, 2011, Abubakr Al-Shamahi, Taking a chance on a democratic Yemen, http://english.aljazeera.net/indepth/opinion/2011/08/2011847134790380.html)

The other outside power with major interests in Yemen is the United States of America. When dealing with Yemen, the Americans usually perceive everything through the lens of terrorism and al-Qaeda. President Saleh has successfully convinced the Americans of the al-Qaeda threat in the country, and has thereby been able to get much in the way of weaponry, equipment, and training from the Americans. This has then often been used against non-Qaeda problems in the country, such as the Houthi rebels in the northern Saada province. The Americans now privately accept the fact that the issue of AQAP has been **overblown** by the Yemeni government, and that it was a useful tool for Saleh to garner support from the US. This explains the less-than-supportive US statements issued in recent months about Saleh and a transition to democracy. However, there still appears to be some hesitation in calling for Saleh to step down immediately. The American support for the GCC proposal, which only calls for Saleh to step down in 30 days, is increasingly bizarre, with him currently out of the country, his sons controlling many government institutions, a growing economic and humanitarian disaster, and attacks against protesters and individual activists continuing. This can only be described as the result of the remnants of the old policies on Yemen refusing to go away. The old fear of abandoning the country to al-Qaeda has meant that Saleh's threats are partly believed, despite the protest movement's full opposition to al-Qaeda ideology. A democracy in Yemen would be a coup for the US, and would give the argument for democracy in the Arab and Muslim world a strong push, especially after the Iraq debacle. Rescuing the Yemeni economy would also severely limit support for AQAP and extremist ideology in general.

**AQAP in Yemen isn’t a threat – divided**

**Spencer 11** - retired British infantry commander. He is a strategic analyst on political, security, and trade issues of the Middle East and North Africa and a specialist on Yemen (James, “A False Dawn for Yemen’s Militants” 6/8, http://www.foreignaffairs.com/articles/67883/james-spencer/a-false-dawn-for-yemens-militants

Although AQAP describes itself as one organization, in practice the group is split in two: the domestic Yemeni group and those terrorists who fled Saudi Arabia. The two wings operate in separate areas using different methods. Indeed, their different tactics, and particularly their different weapons, suggest that they have little contact with each other. The more nationally focused faction of AQAP, based in the Abyan-Shabwa-Marib area, is of little threat to the West. Its cause is largely directed against the Saleh regime, meaning that with the demise of Saleh and his system of patronage, much of its raison d'être will end; where it does not, the tribes will drive it out since it will have outlived its usefulness. The special operations group of AQAP, mostly constituted of transnational jihadis, remains a danger -- although more so to Saudi Arabia than to the West, for reasons of geography. Nevertheless, Saleh's political demise is likely to lead to the reform of the Yemeni state's many overlapping security organizations; this, in turn, will lead to the end of much of the unofficial cooperation between AQAP and sympathizers in the state security apparatus on which AQAP has depended to plan and mount its operations, such as the follow-up attack against the South Koreans. As a consequence, AQAP will find it far harder to achieve its attacks. From AQAP's limited use of suicide bombers to date, it would appear that AQAP does not have access to a large cadre of volunteers; similarly, the group's relatively slow pace of attacks suggests that it does not have many competent bomb-makers. Clearly, if Ibrahim al-Asiri, AQAP's master bomb-maker, can be removed from the picture, much of the special operations group's capability will be lost.

# \*\*\*Drone War\*\*\*

# Impact Defense

#### No risk of drone wars

Joseph Singh 12, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology.

Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team.

Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.

What’s more, the very states whose use of drones could threaten U.S. security—countries like China—are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.

Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.

Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.

Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

# Lk – Tradeoff with Asian coop

#### US soft power undermines the Asian regional cooperation. Others are currently following China’s lead

**An 10/21**/13 [An Gang, “A Dual Balancing Act,” Beijing Review, NO. 43, UPDATED: October 21, 2013, pg. http://www.bjreview.com.cn/world/txt/2013-10/21/content\_573350\_2.htm

The autumn of 2013 is a busy season for China's diplomacy. The successive visits of President Xi Jinping and Premier Li Keqiang to Central Asian countries and Southeast Asian nations as well as their presence at the Shanghai Cooperation Organization (SCO), APEC and East Asian summits have demonstrated the top priority that the new generation of Chinese leadership has given to Asia.

It is believed that the new Chinese Government has slightly readjusted its foreign policy. While continuing to attach great importance to relations with major powers, China will further balance its diplomatic strategy by enhancing relations with neighboring countries.

SCO countries—the countries of Central Asia and Russia—and ASEAN members, like the two wings of a dragon, are twin priorities for China's neighboring diplomacy. During their visits, President Xi proposed that China and Central Asian countries join hands to build a Silk Road economic belt to boost cooperation, while Premier Li proposed a new Maritime Silk Road of the 21st century with ASEAN countries.

During their forays overseas, both leaders have repeatedly stressed China's principles of non-interference in the internal affairs of countries and attempted to reduce misgivings of neighboring countries toward China's rapid development, as well as desalinate geopolitical competitive factors between China and other major powers.

An unavoidable problem for China when conducting its neighboring diplomacy is how to deal with interests in the Asia-Pacific region regarding the United States, the world's sole super power, and how to turn competition into cooperation. Some Chinese and overseas scholars say that the Chinese Government is responding positively to the "Going West" strategy put forward in academia. That strategy states that if China puts excessive diplomatic resources into East Asia, China is bound to engage in conflict with the United States. Therefore, China should pay more attention to its western neighbors in Central Asia for a more balanced diplomacy.

Although Beijing has repeatedly reiterated that its active neighboring diplomacy is not intended to squeeze the United States out of Asia, and Washington has repeatedly stressed that it welcomes China to play a bigger role in the world and has no intention to contain its in Asia, international public opinion prefers a "zero-sum" game between the two, a kind of geostrategic competition.

The competition between China and the United States in Asia has been exaggerated. Both need the peace, stability and prosperity in Asia. Top leaders of the two countries have reached consensus on building a new type of relationship between major powers, and the Asia-Pacific region was made the prime arena for the two to practice this. Neither China nor the United States is willing to fall victim to a rat race between an emerging power and an established power. And both have recognized that a peaceful coexistence in Asia is a prerequisite for the two sides to achieve diplomatic goals.

The Obama administration has been ambitious in its "returning to Asia" strategy during his first term, trying to safeguard the United States while rebalancing the rising influence of China in the region. However, Obama has to accept the reality that China will play a more direct and critical role in Asian issues than the United States in the days ahead.

Forging ahead

As both a land and sea power, China has incomparable advantages in Asia due to its unique geopolitical and cultural influence as well as its growing direct investment in the region. The only card that Washington could play to counter Beijing would be its traditional military presence, using it to interfere with the territorial and maritime disputes between China and some neighboring countries to slow the pace of regional countries' drawing nearer to China.

As the rise of China in Asia has become a reality, China has gradually become the focus of the U.S. Asia-Pacific strategy. Washington's push to contain Beijing is becoming an impossible mission, and it increasingly needs the cooperation of Beijing when dealing with various Asian issues. The Obama administration realized the radical "pivot to Asia" strategy goes against its fundamental requirement of a generally stable Sino-U.S. relationship. The rebalancing strategy cannot pay off.

While two of China's top leaders visited Southeast Asia consecutively, Obama had to cancel his trip there to deal with the budget and debt crisis at home, missing out on a series of important summits. Additionally, the Trans-Pacific Strategic Economic Partnership (TPP) summit, which was to be chaired by Obama himself, had to be cancelled.

First initiated by Brunei, Chile, New Zealand, and Singapore, TPP was later dominated by the United States after it joined the organization in 2008. It quickly became a tool for Washington to promote its values and practice new free trade rules in the Asia-Pacific region. TPP is widely known as a major project of the United States to contend with China's strong economic diplomacy in Asia. During the 2012 U.S. election campaign, Obama said that TPP does not include China, and that it could pressure China to follow basic international standards.

U.S. public opinion criticized Obama's cancellation of the trip to Asia sent a signal that the United States is unable even to fend for itself, let alone Asia. They claimed that Obama's absence has helped China get an upper hand in contending for dominance of regional cooperation in East Asia.

Obama admitted that cancelling the trip was not in line with the interests of the United States. He said in a recent media press meeting, "I should have been there. In the short term, I would characterize it as missed opportunity."

Unsustainable pivot

Some Asian observers noted that, due to the uncertainty of the U.S. domestic political and economic situation, the U.S. pivot to Asia strategy is not sustainable. Even if Obama hopes to focus on Asia, he would be constrained by the complicated domestic situation. They suggested that it is necessary for Asian countries to readjust their strategy gradually.

#### US leadership will turn the South China Seas into a geopolitical hot spot

**Wu 13** - Director of the National Institute for China Sea Studies [Wu Shicun, “Who Are the Real Troublemakers in the South China Sea,” Global Times, Published On: Sat, Jan 5th, 2013, pg. http://tinyurl.com/pyu8o66

Who’s the instigator of rising tensions in the South China Sea?

Since 2009, tensions over South China Sea issues have mounted. It is related to the impact of traditional and non-traditional security factors and also the outcome of the interaction between inside and outside powers in the region. In particular, the US global strategic focus shift to Asia triggered the reconstruction of the post-Cold War geopolitical landscape in Southeast Asia.

Taking advantage of this occasion, some directly concerned countries deliberately consolidate their claims, trying to push the multilateralization and internationalization of the South China Sea dispute with the help of outside powers. Moreover, some countries outside the region follow the US global strategy shift to Asia to increase their interference in South China Sea affairs, which further escalated the geopolitical competition in this area and finally pushed the South China Sea into becoming an international hot spot.

# U – Coop engage now

#### China is peacefully engaging now – Port calls and Hospital ships

**Reuters 10/6**/13 [Stuart Grudgings, “As Obama's Asia 'pivot' falters, China steps into the gap,” | Sun Oct 6, 2013 1:48am EDT, pg. http://tinyurl.com/l9ax8jy

Operating from increasingly modern ports, including a new naval base in the south of Hainan island, its warships are patrolling more regularly, in bigger numbers and further from the mainland in what is the most sweeping shift in Asia's maritime power balance since the demise of the Soviet navy.

China's military diplomacy with Southeast Asia is rapidly evolving as it takes steps to promote what Beijing describes as its "peaceful rise".

The Chinese navy's hospital ship Peace Ark recently treated hundreds of patients on a swing last month through Myanmar, Cambodia and Indonesia - its first such mission across Southeast Asia. Its naval vessels returning from regular international anti-piracy patrols in the Gulf of Aden have made calls in Southeast Asian ports, including Singapore and Vietnam.

# U – China Joint Development now

#### We control the direction of uniqueness. China is pursuing joint develop. US interference undermines that effort

**Wu 13** - Director of the National Institute for China Sea Studies [Wu Shicun, “Who Are the Real Troublemakers in the South China Sea,” Global Times, Published On: Sat, Jan 5th, 2013, pg. http://tinyurl.com/pyu8o66

China a main contributor to a peaceful and stable South China Sea

China has indisputable sovereignty over the South China Sea islands and adjacent waters, as defined by the United Nations Convention on the Law of the Sea (UNCLOS). This has long been recognized by the international community. Based on the principles of maintaining peace and stability in the South China Sea and strengthening cooperation with neighboring countries, China has been exercising self-restraint and promoting dialogue and cooperation with the countries concerned in a constructive manner. China’s contributions to the regional stability are there for all to see.

China is playing a constructive role in safeguarding peace and stability in the South China Sea. Peace and stability in the South China Sea are closely related to the vital interests of China, who benefits from the safe and unimpeded navigation as well as the regional trade links and economic prosperity. China cherishes and is committed to safeguarding this hard-won situation. However, recently some foreign political figures, policy analysts and scholars condemn China’s practices as “the big bullying the small, the strong domineering over the weak.”

They even speculate that China is taking the delaying or dodging tactics so as to dominate the resolution of the disputes when a favorable time comes. Such accusations are totally groundless. China insists on solving international disputes through peaceful negotiations.

China is ready to negotiate with the countries concerned to handle the South China Sea disputes in a proper manner in accordance with the universally recognized international laws including the principles and legal regime established under UNCLOS. Early in the 1980s, China proposed “shelving the disputes and seeking for joint development,” which showed its sincerity and willingness to a proper settlement of the SCS disputes.

In December 2000, China and Vietnam after many years of negotiation, signed the Agreement on the Delimitation of the Beibu Gulf (Tonkin Gulf), leading to the delimitation of the territorial sea, Exclusive Economic Zones (EEZ) and continental shelf between the two countries. In October 2003, China joined ASEAN’s Treaty of Amity and Cooperation and signed with ASEAN the Joint Declaration on Strategic Partnership for Peace and Prosperity, through which the strategic mutual trust was greatly enhanced.

In July 2011, China and ASEAN adopted the Guidelines to Implement the DOC, which paved the way for further practical cooperation in the South China Sea. In November 2011, China proposed setting up a 3 billion yuan ($480 million) China-ASEAN Maritime Cooperation Fund in order to bring about multi-tiered and all-round maritime cooperation with ASEAN.

With its positive actions and goodwill gestures, China has been playing an important role in safeguarding peace and stability in the South China Sea. It could be seen, from the facts of the equitable and reasonable demarcation of the Beibu Gulf with Vietnam as well as the self-restraint exercise throughout the Huangyan Island standoff, that China as a big country has never bullied the small ones.

Some other facts should not be ignored either. The US emphasizes that it does not take a position and is neutral in the South China Sea disputes. However, a high-profile US government official intentionally used the “West Philippine Sea” instead of the internationally recognized name “the South China Sea,” and a US senator criticized the normal bid inviting action by a Chinese oil company and accused it as violating Vietnam’s territorial rights. Seeing all these, people cannot but question what kind of neutrality the US is displaying.

Furthermore, on August 3, 2012, the US Department of State issued a press statement on the South China Sea. The statement showed total disregard of the facts, confounded right and wrong, and made unfounded accusations against China, intentionally complicating the situation and escalating the disputes in the South China Sea.

When seeking the root causes for the unrest in the South China Sea since 2009, in contrast with China’s commitment to peace and stability, some countries have been provoking discord and disputes and stirring up trouble on purpose. This must be exposed to and condemned by international opinion.

China is the Protector of a Peaceful and Stable South China Sea. China’s sovereignty claim over the four island groups in the South China Sea has ample historical and legal evidence. Certain foreign media are hyping up the “China threat in the South China Sea,” claiming that China is coming up with its own version of the Monroe Doctrine in Asia.

Certain state leaders claim that China wants to turn the South China Sea into a “Chinese Lake,” and that they can not allow China to “exercise disproportionate control” over the South China Sea, so on and so forth. All those subjective assumptions are clearly not true. China’s modern history was one of miserable suffering from colonization and invasion rather than hegemony and expansion.

China adheres to the road of peaceful development, unswervingly pursuing an independent foreign policy of peace and a defense policy that is defensive in nature rather than trying to expand its sphere of influence. Never seeking hegemony is China’s solemn commitment to the whole world.

China is a committed protector of the peace and stability of the South China Sea. It has never claimed sovereignty over the entire South China Sea, nor will it expand its current claim. The Chinese people love peace, and uphold the principle of good neighborly friendship.

Yet, it does not mean that China will accept its territorial sovereignty or maritime rights and interests being infringed by foreign countries. China respects other countries, and is willing to settle territorial and jurisdictional disputes with its neighbors through consultations and negotiations on a friendly and equal basis. But China’s legitimate rights and appeals must get its due respect and assurance.

China has always exercised self-restraint on the South China Sea issue, and has taken reasonable and irreproachable reactions to the challenges created by relevant states. Setting up Sansha city recently was the Chinese government’s necessary adjustment of the local administrative agencies, the offices in Xisha, Nansha and Zhongsha islands which have existed since 1959. Such conduct is completely within China’s sovereignty. As an outsider, the US is neither a South China Sea claimant state, nor a signatory state to the UNCLOS, and thus neither justified nor qualified to criticize China.

#### China is pursuing a Code of Conduct and self-restraint. They will oppose US interference

**Wu 13** - Director of the National Institute for China Sea Studies [Wu Shicun, “Who Are the Real Troublemakers in the South China Sea,” Global Times, Published On: Sat, Jan 5th, 2013, pg. http://tinyurl.com/pyu8o66

South China Sea is one of the world’s most important sea lanes. China has always respected the freedom of navigation and overflight that other countries enjoy in the South China Sea according to international laws. It is also ready to work together with other parties concerned to promote international cooperation on maritime security in the region.

Yet, China opposes any outsider meddling with the South China Sea issue using the excuse of “maintaining freedom of navigation in the South China Sea.” What littoral states should do right now is to seize the opportunity of economic globalization and regional integration to participate in international economic cooperation and competition so as to enhance economic growth and regional stability.

Exercising self-restraint and seeking consensus while shelving differences is the wise step to take at present to address the South China Sea issue, while consultation, dialogue and pragmatic cooperation will be the only way to its final settlement. China has been fulfilling its commitments to regional stability and development with real actions. Other countries concerned shall also undertake their unshirkable responsibilities and duties.

An important part of dialogue and cooperation between China and ASEAN countries now is to carry out the Guidelines for Implementing the DOC and a series of follow-up actions. One element of the guidelines is to discuss and formulate a Code of Conduct in the South China Sea (COC), toward which China’s attitude is open and active. Currently, the most pressing task is for parties concerned to respect and honor the spirit of the DOC, push forward direct negotiations and consultations, and enhance practical cooperation.

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## Syria

SEEKING ALPHA 9 – 10 – 13 [“Syria Could Upend Debt Ceiling Fight” <http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight>]

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

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

While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling. Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues. Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight.

I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011. As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%.

Investors must be prepared for this "black swan" event. Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time. Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade. I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, canceling the congressional vote. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks. The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama. Remember, in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

# politics

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### Overview

#### Disad outweighs and turns everything – we deter every conflict - Speed and planning are the lynchpins of deterrence – prevents nuclear, chemical, biological and conventional war – need to send an absolute signal that we can and will quickly get involved to deter aggression

GERSON 09 research analyst in the Strategic Initiatives Group. [Michael S. Gerson, “Conventional Deterrence in the Second Nuclear Age”. Parameters, US Army War College Quarterly, Autumn 2009. http://www.carlisle.army.mil/usawc/parameters/Articles/09autumn/gerson.pdf]

This article seeks to expand the current debate about the role and utility of conventional forces in US deterrence strategies by reexamining the traditional logic of conventional deterrence, which focuses on deterrence by denial, in the context of the modern international security environment. It is primarily concerned with the role of US conventional forces in extended deterrence, defined as the threat of force to protect allies and friends, rather than “central” or “homeland” deterrence. 3 This focus on extended deterrence—and especially on the role of deterrence by denial in extended deterrence—highlights the central importance of protecting territory from attack and invasion. Historically, the desire for control over specific territory has been a frequent motivator of interstate crises and conflict. 4 While interstate conventional wars have significantly declined since the end of the Second World War, the potential for conflict over Taiwan or on the Korean Peninsula, the prospect of future clashes over control of scarce natural resources, and the 2008 war between Georgia and Russia attest to the continued possibility of conflict over specific territory that has important strategic, economic, political, religious, historical, or socio-cultural significance. Consequently, this article examines how US conventional military power can be used to deter conventional aggression against friends and allies by threatening to deny an adversary its best chance of success on the battlefield—a surprise or short-notice attack with little or no engagement with American military forces. The ability to prevent an opponent from presenting the United States with a fait accompli—that is, from striking quickly and achieving victory before substantial US (and perhaps coalition) forces can be deployed to the theater—is a central component of modern conventional deterrence.

Conventional Deterrence in US Strategy

Broadly defined, deterrence is the threat of force intended to convince a potential aggressor not to undertake a particular action because the costs will be unacceptable or the probability of success extremely low. This threat has always been one of the central strategic principles by which nations attempted to prevent conflict. 5 Even so, the development and rigorous analysis of deterrence as a discrete strategic concept did not occur until the advent of nuclear weapons. Deterrence theory was developed against the backdrop of the Cold War nuclear arms race and focused on the prevention of nuclear conflict. Yet, while the majority of academic research and public debate was concerned with the prevention of nuclear war—the net result was that deterrence became synonymous with nuclear weapons—conventional deterrence, appropriately, assumed an increasingly important role in the development of military strategy during this period. 6 As the Soviet Union began to amass a large and survivable nuclear arsenal that was capable of global reach in the late 1950s and early 1960s, the credibility of the Eisenhower Administration’s policy of “Massive Retaliation,” which threatened an overwhelming nuclear response to virtually any Soviet aggression, was brought into question. Once the Soviet Union developed survivable nuclear capabilities that could reach the US homeland, many defense officials and analysts argued that the threat of Massive Retaliation lacked credibility against anything other than an all-out Soviet nuclear attack. 7 As a result, western military strategy eventually shifted from total reliance on nuclear weapons as a means of deterring both Soviet conventional and nuclear aggression to a strategy of “Flexible Response,” which included conventional and nuclear elements. From the mid-1960s onward, NATO relied on conventional power, backed by the threat of nuclear escalation, to deter any conventional assault on Europe by the numerically superior Warsaw Pact, and relied on nuclear weapons to deter nuclear attacks. 8 By incorporating “direct defense”—the ability to respond to Warsaw Pact aggression, especially conventional aggression, with proportionate (i.e., conventional) force—into NATO strategy, the concept of Flexible Response sought to create a more credible means of deterrence across the entire spectrum of conflict Following the Cold War, conventional greater role in US national security strategy. With the demise of the Soviet Union and significant advancements in conventional precision-guided munitions, many defense analysts concluded that “smart” weapons could provide a powerful deterrent against a wide variety of threats. While some commentators argued that nuclear weapons were still necessary to prevent nuclear attacks, and others contended that conventional weapons were “the only credible deterrent” even against nuclear threats, almost all agreed that technologically advanced conventional weapons could now take the place of nuclear weapons in many missions. 9

Following the remarkable success of sophisticated conventional firepower in Operation Desert Storm, William Perry declared, “This new conventional military capability adds a powerful dimension to the ability of the United States to deter war.” 10 In the current international security environment, conventional deterrence can be useful against nonnuclear and nuclear-armed adversaries. For regimes that do not possess nuclear, chemical, or biological weapons, US conventional capabilities will likely be the most credible and potent deterrent. History suggests that, in general, nations without weapons of mass destruction (WMD) are not intimidated by an opponent’s nuclear capabilities. For example, nuclear weapons did not give the United States significant advantages before or during the Korean and Vietnam wars; nor did they dissuade Egypt from attacking Israel in the 1973 Yom Kippur War 11 or Argentina from attacking the British-controlled Falkland Islands in 1982. 12 This circumstance is due in part to the perceived impact of the “nuclear taboo,” a moral and political aversion to using nuclear weapons that has emerged due to the long absence of nuclear use in time of war. The nuclear taboo reduces the credibility—and therefore the utility—of nuclear weapons, especially against regimes not possessing nuclear weapons or other WMD. 13 Although implicit or explicit nuclear threats may lack credibility against non-WMD regimes, many potential adversaries believe that the United States will use conventional firepower, especially because America has conventional superiority and a demonstrated willingness to use it. Consequently, when dealing with non-WMD-related threats, conventional deterrence will be the most likely mechanism for deterring hostile actions. 36

Parameters

According to Admiral Michael Mullen, the current Chairman of the Joint Chiefs of Staff, “A big part of credibility, of course, lies in our conventional capability. The capability to project power globally and conduct effective theater-level operations . . . remains essential to deterrence effectiveness.” 14 Conventional deterrence also plays an important role in preventing nonnuclear aggression by nuclear-armed regimes. Regional nuclear proliferation may not only increase the chances for the use of nuclear weapons, but, equally important, the possibility of conventional aggression. The potential for conventional conflict under the shadow of mutual nuclear deterrence was a perennial concern throughout the Cold War, and that scenario is still relevant. A nuclear-armed adversary may be emboldened to use conventional force against US friends and allies, or to sponsor terrorism, in the belief that its nuclear capabilities give it an effective deterrent against US retaliation or intervention. 15 For example, a regime might calculate that it could undertake conventional aggression against a neighbor and, after achieving a relatively quick victory, issue implicit or explicit nuclear threats in the expectation that the United States (and perhaps coalition partners) would choose not to get involved. In this context, conventional deterrence can be an important mechanism to limit options for regional aggression below the nuclear threshold. By deploying robust conventional forces in and around the theater of potential conflict, the United States can credibly signal that it can respond to conventional aggression at the outset, and therefore the opponent cannot hope to simultaneously achieve a quick conventional victory and use nuclear threats to deter US involvement. Moreover, if the United States can convince an opponent that US forces will be engaged at the beginning of hostilities—and will therefore incur the human and financial costs of war from the start—it can help persuade opponents that the United States would be highly resolved to fight even in the face of nuclear threats because American blood and treasure would have already been expended. 16 Similar to the Cold War, the deployment of conventional power in the region, combined with significant nuclear capabilities and escalation dominance, can help prevent regimes from believing that nuclear possession provides opportunities for conventional aggression and coercion.

#### AND – err our way - Executive expertise means they’ll make the best cost-benefit analysis for you

POSNER & SUNSTEIN 07 \*Kirkland & Ellis Professor of Law, University of Chicago, \*\* Karl N. Llewellyn Distinguished Service Professor of Jurisprudence, University of Chicago. [Eric A. Posner and Cass R. Sunstein, Chevronizing Foreign Relations Law, The Yale Law Journal, April, 2007, 116 Yale L.J. 1170]

Our minimal suggestion here is that in cases in which the executive has adopted an interpretation via rulemaking or adjudication, or is otherwise entitled to deference under standard principles of administrative law, the executive's interpretations should prevail over the comity doctrines. Those doctrines, we argue, should not be treated as part of the court's analysis under Chevron Step One. It follows that courts should defer to the executive's judgment unless it is plainly inconsistent with the statute, unreasonable, or constitutionally questionable. The executive is in the best position to reconcile the competing interests at stake, and in the face of statutory silence or ambiguity, Congress should therefore be presumed to have delegated interpretive power to the executive. If the executive decides that the statute should be interpreted so as to overcome the comity principles, it ought to be [\*1205] permitted to interpret the statute in that way. There is no reason to distrust the executive's competence in making the underlying choices.

Beyond this minimal suggestion, we contend that in the domain of foreign relations, the approach signaled in Chevron should apply even if the executive is not exercising delegated authority to make rules or conduct adjudications. It is highly relevant here that considerations of constitutional structure argue strongly in favor of deference to the executive - a point that makes the argument for deference stronger than in Chevron itself. For those who reject this contention, we suggest that the level of deference signaled by the Court's decision in Mead provides the proper standard - and that Skidmore deference, even if weaker, confers a measure of authority on the executive.

Our basic conclusions follow from the grounds for the international comity principles. We have criticized the entanglement theory, but even if the theory is right, the executive branch, unlike the judiciary, is in a good position to know whether concerns about entanglement justify a decision to invoke comity. If the executive is not worried about entanglement, and if Congress has expressed no such worry through legislation, the argument for deference to the executive is strong. Litigation produces entanglement problems when the decision on the merits is likely to offend a foreign sovereign, perhaps leading it to withdraw cooperation in some area of foreign relations that is vital to America's interests. The court has no expertise in determining whether a certain kind of litigation will offend a foreign sovereign, whether the sovereign is likely to respond by reducing cooperation, or whether such cooperation is valuable. These judgments are all at the core of the foreign relations expertise of the executive.

Now consider the consequentialist theory. The underlying inquiries required by this theory are highly complex and have empirical and normative dimensions, for which the executive's institutional position gives it a decisive advantage over the courts - even more so than under the entanglement theory. Two points are important here.

First, the executive branch carefully tracks relations with foreign states. Thus it is in a better position to predict whether a particular act of deference to foreign interests is likely to result in reciprocation by foreign states or whether such states would retaliate for a violation of the comity principles. The prediction is based on subtle factors - including the nature of the relationship with the foreign state, the cultural norms of that state, its legal system and other institutions, its politics, and so forth. These are factors followed and assessed by the Department of State. They are well beyond the usual kind of judicial fact-finding.

It follows that the executive branch is in a better position to understand the benefits of foreign reciprocation or the likelihood and costs of retaliation than the judiciary. Suppose, for example, that in response to litigation against China [\*1206] by Chinese victims of state repression, China begins to issue vague threats against Taiwan. Are these threats credible? Are they meant to signal that China will take a more confrontational stance toward Taiwan if the United States allows Chinese citizens to sue China for human rights violations? Or do they perhaps signal a general chilling of relations, in which case the United States may have more trouble obtaining Chinese assistance in pressuring Iran to abandon its nuclear plans? Courts cannot answer these questions; the executive can.

The second point involves accountability. In deciding whether American law should be applied abroad, or whether a statute should be construed in conformance with international law, the executive must balance competing interests and make value judgments. It must ask questions not only about reciprocity and retaliation, but also about the importance of applying, say, the National Labor Relations Act to protect Americans aboard a foreign ship in American waters, or the ban on sex discrimination to American companies doing business in China, or the Endangered Species Act to the activities of American institutions operating in Japan. n114 At least at first glance, those judgments should be made by those who are accountable to the public, not by courts. The executive might well pay a price if it concluded that American civil rights or environmental law ought not be applied to American activities in other nations. As in the Chevron context, the executive is far more likely than a court to be punished by the public if it causes or fails to resolve tensions with other countries or a foreign policy crisis. Indeed, although courts routinely anger foreign sovereigns, n115 we cannot think of any case in which the public has put pressure on courts because of such crises - probably because the connection between judicial decisions and international tensions is not salient enough.

The flip side of accountability is concern about political bias. n116 Because courts are independent, they may be more neutral than the executive, and thus perhaps more likely to interpret the statute impartially. But this concern is identical in the Chevron context in which, as we noted, courts have plausibly concluded that the executive's control over policy justifies its heightened [\*1207] authority over the interpretation of statutes. In any case, judges may have biases of their own. Any relevant "bias" on the part of the executive in the domain of foreign affairs is best understood as the operation of democracy in action - at least if the executive's interpretation is reasonable and if constitutionally sensitive issues are not involved.

Thus, the expertise rationale for deference to the executive is stronger in the foreign relations setting than in the traditional Chevron setting, while the accountability rationale for deference is at least equally strong. These conclusions suggest that if the approach in Chevron is correct, deference to executive interpretations in foreign relations cases must also be the appropriate approach. The core reason is that resolution of statutory ambiguities involves judgments of policy, and those judgments are best made by the executive. None of this means that courts have no relevant expertise. Courts might have a better sense than the executive of how enforcement of foreign judgments may harm the integrity of the American judicial system. But this advantage is relatively minor compared to the advantages of the executive.

What we have said so far also applies when statutes and common law are relatively clear - i.e., outside the Chevron setting - if the executive branch argues that the court should dismiss the case rather than reach the merits. Here, to be sure, there is a greater danger of conflict between the executive and Congress, but Congress has not objected to the traditional doctrines of executive deference, and until it does so, the constitutional problems seem more theoretical than real. n117 The normative question is whether the executive's institutional expertise gives it advantages over courts in this setting as it does in the Chevron setting, and the answer is surely yes. In both cases, the argument for deference to the executive is that it has more expertise than the courts in foreign relations and that the executive's accountability for foreign relations is more important than the courts' independence from political pressure. n118

#### INSERT CIRCUMVENTION CARD IF NOT READ ELSEWHERE

# linebyline

### Top

They needed to impact turn this advantage – they read ev in the 1AC that deference is high now and that the plan changes it:

#### Their Farley card:

, a statutory definition of hostilities will provide the judiciary with a meaningful standard for determining presidential compliance with the WPR - assuming the future existence of a plaintiff able to surmount the various prudential doctrines that have counseled against entertaining WPR cases thus far. Finally, Congress should insist that force used under the covert action legal regime actually be covert. That is, force used under covert action's permissive accountability regime should demonstrate an objective intent to avoid the apparent or publicly acknowledged role of the U.S. government. [\*424] Where a use of force is extensive and U.S. involvement is apparent, that use of force should be subject to the more rigorous WPR regime. The U.S. drone campaign over Pakistan may present just such a case - those strikes ceased being covert in any meaningful way years ago. Thus, the current regime reduces the barriers to a more permissive accountability scheme to a mere labeling exercise. Of course, there are other methods by which accountability for the use-of-force decisions - particularly, use-of-force decisions employing drones - might be increased. Some have suggested the establishment of a "drone court," modeled on the Foreign Intelligence Surveillance Court, to provide ex ante judicial review of targeted strikes, at least. n215 Others have suggested the creation of a new cause of action for the families of drone strike targets who argue their family members were wrongly targeted, and the imposition of ex post accountability. n216 Each suggestion has merit; however, neither suggestion will impose substantially greater accountability on the President as long as the judiciary maintains its historical deference to the President in matters implicating use of force. Regardless, these new judicially-focused schemes require Congressional action

2AC isn’t allowed to contradict 1AC ev …

## Uniqueness

### Frontline

#### The link outweighs – deference is linear – courts can go from not hearing ANY case to hearing them all. There is a lot of grey area.

#### AND – the status quo hasn’t met a threshold of ending general deference – rhetoric has been tough BUT no authority has been removed.

ZEISBERG 12 University of Michigan, Ann Arbor. [Mariah Zeisberg, BOOK REVIEW: POWER AND CONSTRAINT: THE ACCOUNTABLE PRESIDENCY AFTER 9/11, Winter, 2012, Tulsa Law Review, 48 Tulsa L. Rev. 195]

Goldsmith's investigation into the robustness of presidential constraint is also underdeveloped in places. When comparing Presidents Bush and Obama, Goldsmith insists that despite its "rhetoric" of presidential power, the Obama administration's policy outputs are strikingly similar to those of the late Bush presidency. n32 But when analyzing judicial checks, Goldsmith takes rhetoric at face value. This is a problem because, however bold the Court's rhetoric in the Hamdi, n33 Padilla, n34 Rasul, n35 Hamdan, n36 and Boumedienne n37 cases, the Court was highly deferential on the concrete policy outcomes these rulings would require from the government. n38 Kim Scheppele argues that by ruling in favor of petitioners' habeas rights, but repeatedly deferring the question of what the content of those rights amounted to, the Supreme Court created a new and insidious form of judicial deference. n39 The courts after 9/11 were "very active, right from the start ... .[But] what does it mean to keep winning cases if nothing in fact changes?" n40 It is unclear to what extent these judicial interventions should be construed as "constraining." Goldsmith's book could have illuminated that question had it offered a more thoughtful and consistent standard on the question of whether rhetoric, or only policy, is a notable political outcome.

#### Status quo avoids judicial backlash – decisions that restrict authority will undermine the judiciary and won’t be enforced

SCHEPPELE 12 Laurance S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and University Center for Human Values; Director of the Program in Law and Public Affairs, Princeton University [Kim Lane Scheppele, The New Judicial **Deference**, Boston University Law Review, 92 B.U. L. Rev. 89 2012]

The case for self-regarding courts can be made even more strongly, on the evidence we've seen in this Article. As long as courts still exercise a certain degree of deference to the way that governments are dealing with specific cases, courts can avoid incurring the wraths of those governments. Governments care primarily in times of crisis about having a green light to go on detaining those whom they want to detain and about stringing out the day of reckoning when proof has to be provided. If governments receive that deference, then governments have no reasons to attack the courts when the courts assert themselves on matters of relatively abstract principle. If courts stay within these limits, doing whatever they feel they need to do to the law while letting the governments prevail on the facts, then governments are likely to appear to follow the court decisions, insist on their respect for the courts, and in general let courts get away with issuing governments these "defeats." Of course, governments would probably prefer to do whatever they want without being hauled before courts to justify their actions, but as long as being hauled before courts comes with the territory of being a constitutional state, new judicial deference may be the best they can expect.

As we have seen, courts have slapped the government on the wrist and forced it to readjust its policies at the margins. But courts have not required the release of detainees, the immediate provision of evidence against them, or absolutely normal tribunals. It is much easier for governments to comply with court decisions when those court decisions do not in fact second-guess concrete decisions of the government to detain specific individuals in a crisis. In fact, court decisions that issue a lot of smoke and noise but do little to require immediate action may appear to be upholding constitutional principles while in fact strengthening the hands of governments who can then rightly say that they are doing what the law requires.

After 9/11, then, courts have been willing to stand up to governments in times of crisis, using their substantial heft against the government's bulked-up war powers. Governments, in turn, have been willing to comply with court decisions because doing so has not really threatened the immediate actions they have already taken.

#### ALL the cases the court is ignoring now have established deference – NOT about what they’ve done – about all they have NOT done.

KNOWLES 09 Assistant Professor, New York University School of Law. [Robert Knowles, American Hegemony and the Foreign Affairs Constitution, Arizona State Law Journal, Spring, 2009, 41 Ariz. St. L.J. 87]

Abstention from deciding an issue altogether, under the political question doctrine, is the ultimate form of deference. n81 The Supreme Court articulated the modern doctrine in Baker v. Carr. n82 Although, like Chevron, the modern doctrine contains a formal component - "a textually demonstrable constitutional commitment of the issue to a coordinate political department" - the outcome often hinges on "prudential," or functional, considerations, particularly in foreign affairs cases. n83 The functional justifications for abstention under the political question doctrine fall into two categories. First, there are issues that courts are incompetent to evaluate - because they lack "judicially manageable standards" or would require "a policy determination of a kind clearly for nonjudicial discretion." n84 Second, courts should not decide issues that would have collateral consequences in the form of "embarrassment" or "lack of respect" to the other branches. n85 Despite its declining use in domestic cases, the political question doctrine still has great force in foreign affairs. n86 In fact, courts have added extra-Baker functional justifications for abstaining in foreign affairs controversies - the difficulty of obtaining extraterritorial evidence, the high stakes involved, and the extreme sensitivity of these issues. n87

## Link

#### Read 1AC ev above – yes, this is true in the squo – but the plan changes it by changing the legal regime and setting a precedent that expands the utility of the WPR

#### Their evidence concludes aff

**1. congressional action causes court intervention**

**2. Normal means – courts are the only branch CAPABLE of checking the president**

#### 3. Worst case, solvency – congress alone is ineffective – don’t be afraid to vote on presumption because this is aff evidence

Judah A. Druck 12 B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013; Notes Editor, Cornell Law Review, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf

By now, the general pattern concerning presidential treatment of the WPR should be clear: when faced with a situation in which the WPR should, by its own terms, come into play, presidents circumvent its application by proffering questionable legal analyses. Yet, as was frequently the case following the aforementioned presidential actions, those looking to the courts for support were disappointed to learn that the judiciary would be of little help. Indeed, congressional and private litigants have similarly been unsuccessful in their efforts to check potentially illegal presidential action.52 The suits arising out of possible WPR violations are well-documented53 and therefore only require a brief review. Generally, when faced with a question concerning the legality of presidential military action, courts have punted the issue using a number of procedural tools to avoid ruling on the merits. For example, when twenty-nine representatives filed suit after President Reagan’s possible WPR violation in El Salvador, the U.S. District Court for the District of Columbia dismissed the suit on political question grounds.54 Similar suits were dismissed for issues involving standing,55 mootness,56 ripeness,57 or nonjusticiability because Congress could better handle fact-finding.58 Despite the varying grounds for dismissing WPR suits, a general theme has emerged: absent action taken by Congress itself, the judiciary cannot be counted on to step in to check the President. To be sure, the judiciary’s unwillingness to review cases arising from WPR disputes arguably carries some merit. Two examples illus- trate this point. First, although a serviceperson ordered into combat might have standing to sue, congressional standing is less clear.59 Indeed, debates rage throughout war powers literature concerning whether congressional suits should even be heard on their merits.60 And though some courts have held that a member of Congress can have standing when a President acts unilaterally, holding that such unauthorized actions amount to “disenfranchisement,”61 subsequent decisions and commentators have thrown the entire realm of legislative standing into doubt.62 Though the merits of this debate are beyond the scope of this Note, it is sufficient to emphasize that a member of Congress arguably suffers an injury when a President violates the WPR because the presidential action prevents the congressperson from being able to vote (namely, on whether to authorize hostilities),63 thereby amounting to disenfranchisement by “preclu[ding] . . . a specific vote . . . by a presidential violation of law . . . .”64 As such, under the right circumstances, perhaps the standing doctrine should not be as problematic as history seems to indicate when a congressperson attempting to have a say on military action brings a WPR suit. Secondly, and perhaps more importantly, it is arguably unclear what, if any, remedy is available to potential litigants. Unlike a private lawsuit, where a court can impose a simple fine or jail sentence, suits against the executive branch carry a myriad of practical issues. For example, if the remedy is an injunction, issues concerning enforcement arise: Who enforces it and how?65 Or, if a court makes a declaratory judgment stating that the President has acted illegally, it might invite open defiance, thereby creating unprecedented strife among branches. Yet, a number of possible remedies are indeed available. For one, courts could simply start the WPR clock, requiring a Presi- dent to either seek congressional approval or cease all actions within the time remaining (depending on whether the court starts the clock from the beginning or applies it retroactively).66 In doing so, a court would trigger the WPR in the same way that Congress would have had it acted alone. On a similar note, a court could declare the relevant military conflict illegal under the WPR, thereby inviting Congress to begin impeachment proceedings.67 Although both cases require some level of congressional involvement, a court could at least begin the process of providing a suitable remedy. Thus, the more questionable issues of standing and remedies should not (under the right circumstances) prevent a WPR suit from moving forward. What about the pragmatic issues associated with involving the judiciary in foreign affairs? After all, we might not want our judiciary entering the world of realpolitik by forcing a President’s hand; doing so would require a large political (and administrative) undertaking that might take us beyond the bounds of the judiciary’s institutional role. And as previously mentioned, courts do not, and perhaps should not, want to be in the business of telling the President when or how to act, especially when such conflict might result in presidential defiance. This position might make sense in a system where we could rely on congressional action to prevent unilateral action. **But given the dysfunction that overwhelms the legislative branch whenever a President violates the WPR**,68 the entire premise of a system emphasizing no unilateral military action is inverted when the onus is placed squarely on Congress. If Congress could not go to the courts in order to prevent further presidential WPR violations, it would be required to turn to its legislative powers. But doing so would require the approval of at least a majority of Congress, though two-thirds would seem more reasonable given the likelihood of a presidential veto. Requiring such an overwhelming level of congressional support and unity to act is irrational and unreasonable, especially after considering the ways in which most Congresses have failed to act on prior occasions.69 Given this high burden placed on any Congress, even one with majority control, the judiciary **must** play some role when a President violates the WPR. Though the pragmatic issues around judicial intervention require some recognition, they are, in some respect, the lesser of two evils. But beyond the technical barriers courts impose (and the practical reasons behind them), their consistent refusal to reach the merits in WPR cases is more fundamentally problematic given the ways in which early U.S. courts handled cases involving unilateral presidential action.70 One case in particular illustrates the conflict between the historical and contemporary judicial handling of military cases. Little v. Barreme71 involved the U.S. seizure of a Danish ship sailing from a French port pursuant to direct orders from President John Adams that ran contrary to congressional authorization.72 In concluding that the captain of the U.S. vessel could be held personally liable for damages,73 Chief Justice John Marshall (on behalf of a unanimous court) held that the President could not circumvent congressional authority, thereby creating a framework wherein “congressional policy announced in a statute necessarily prevails over inconsistent presidential orders and military actions.”74 Perhaps most notably, Chief Justice Marshall never even considered the political question doctrine or any other judicial avoidance tool in reaching this conclusion.75 Thus, Little seemingly stands for the proposition that the prevention of unilateral presidential action is not merely an issue of public policy, but rather part of the structure of the courts’ constitutional power. Consequently, per Little, judicial intervention into military affairs should not be problematic. But we have clearly shifted toward a new judicial framework that does not assert the type of judicial authority Chief Justice Marshall contemplated. The result is that all members of Congress who attempt to challenge presidential military action fail, casting into doubt the future of WPR suits.

# counterplan

## Preemption

#### Not reverse causal – India and China have already adopted preemptive doctrines – the plan doesn’t change their conventional military doctrines

#### 2. Evidence for preventive war is spotty.

Sechser 5 (Todd, Assistant Prof. Politics specializing in International Security—Stanford U., “How Organizational Pathologies Could Make Nuclear Proliferation Safer”, Presented at the annual conference of the Midwest Political Science Association, 4-7, \*I had to ILL this. I don’t think it’s available online)

Empirically, the case against the preventive war bias is at least as strong as that behind it, **not least because of the historical absence of such wars against emergent nuclear powers**. Proponents of the preventive war hypothesis have found evidence to corroborate their viewpoint in the U.S. military’s attitude toward the Soviet Union’s budding nuclear capability, but a critic might highlight its approach to China’s emerging arsenal: even Air Force Chief of Staff Curtis LeMay, notorious for having pressed for preemptive airstrikes against Soviet missile sites in Cuba a year earlier (May and Zelikow 1997), opposed preventive attacks on Chinese nuclear sites on the grounds that they would invite retaliation and create diplomatic problems for the United States. Rather, it was the Kennedy administration’s civilian strategists that maintained an interest in keeping China non-nuclear through preventive strikes, although they too rejected the option (Burr and Richelson 2000/2001). The arguments in this section caution against interpreting archival evidence too broadly. Rarely have high-ranking military officials actually recommended preventive war to state leaders; rather, most examples of “preventive war bias” have been drawn from officers’ memoirs, diaries, or informal conversations. The distinction between these illustrations and actual policy advice should not be underestimated. Military officers consider absurd ideas all the time—U.S. officers, for example, once toyed with the idea of detonating a nuclear weapon on the moon to intimidate the Soviets (Davidson 1999: 94-95). It is one thing for on officer to make aggressive remarks to a newspaper or college commencement audience about preventive war, or to lecture Air War College students about the dangers of allowing an adversary to become strong. But it is quite another to recommend to high-level political leaders that the country initiate an all-out war without immediate provocation. One act entails little professional risk (other than being removed for publicly disparaging government policy), while the other places one’s accountability, career, and possibly life on the line. The logic and examples above suggest that the gap between risk-free chatter and actual policy recommendations is larger than proliferation pessimists have been willing to acknowledge.

#### 3. Lots of historical disproof

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. 522)

The prospect of military action to destroy nuclear weapons and facilities in East and South Asia has declined markedly. The Soviet Union contemplated preventive military action against China's nuclear facilities in 1969, but the United States refused to support such action. Several years ago there was concern that India might attack Pakistan's nuclear installations. Even if this was a serious possibility, its probability has declined sharply. The two countries entered into an agreement not to attack each other's nuclear facilities. This agreement held even during the crisis situations in the 1999-2002 period. Since then, India and Pakistan have taken additional measures to prevent an accidental outbreak or escalation of conflict. More germane to the contemporary context is the emphasis in the U.S. 2002 Nuclear Posture Review on offensive military action against rogue states. The United States seriously contemplated a preventive strike against North Korea's nuclear weapon facilities during the first nuclear crisis on the Korean peninsula in 1993-94 (Perry 2006). And the George W. Bush administration threatened preventive action against North Korea during its first term. 3 However, that policy has lost traction and has no support among states in Northeast Asia, including U.S. allies. Neighboring countries oppose any preventive strike, fearing that it could result in a general war that would have negative consequences for their own national security and regional stability. Although the United States has the military capability to undertake such an action it is unlikely to act without the support of its regional allies. The force option is still on the table, but the approach to resolve the North Korean nuclear problem has decidedly shifted to the diplomatic arena.

#### Empirics prove preventive wars either don’t happen or don’t escalate

Rousseau 2k (David, Assistant Prof. Pol. Sci.—Penn, "Proliferation Module," http://www.ssc.upenn.edu/~rousseau/archived\_web/psci150/modules/pro/lecture1.htm)

Second, opponents of proliferation claim that states acquiring nuclear weapons have enduring rivals. These critics argue that injecting nuclear weapons into these already volatile relationships will result in violence. New nuclear power could launch preemptive or preventative strikes. These people argue that the existence of a rivalry greatly increases the probability the nuclear weapons will be used. History has demonstrated that only states facing a hostile external environment will be willing to spend the billions and billions of dollars necessary to acquire nuclear weapons. However, the existence of a enduring and hostile rival does not pose a real danger for two reasons. First, history shows that injecting nuclear weapons into long term hostile situations does not result in war. The United States allowed the Soviets to get nuclear weapons in 1949 without initiating violence. The Soviets allowed the British to get nuclear weapons in 1952 without initiating violence. The Soviets allowed France to get nuclear weapons in 1960 without initiating violence. The United States and Soviet Union allowed the Chinese to get nuclear weapons in 1964 without initiating violence. The Chinese allowed India to get nuclear weapons in 1974 without initiating violence. The Indians allow Pakistan to get nuclear weapons in the 1990's without initiating violence. Nuclear proliferation has not lead to either conventional or nuclear war. Second, if an existing nuclear power engages in a preventative strike, it will not be the end of the world. Israel's preventative strike against the Iraqi nuclear program in 1981 did not result in the use of nuclear weapons. While the attack was personal tragedy for those killed in the raid, it would not lead me to conclude that proliferation is very dangerous.

#### 4. No military bias in favor of preventive war.

Sechser 5 (Todd, Assistant Prof. Politics specializing in International Security—Stanford U., “How Organizational Pathologies Could Make Nuclear Proliferation Safer”, Presented at the annual conference of the Midwest Political Science Association, 4-7, \*I had to ILL this. I don’t think it’s available online)

Proliferation pessimism contends that the spread of nuclear weapons is dangerous because it could lead new nuclear states—particularly those lacking strong civilian control of the military—to launch preventive wars against rivals with burgeoning nuclear programs: Whenever a new state is seen to be developing nuclear weapons, it is likely that its rivals will consider preventive war under this “better now than later” logic. My theory and the evidence both suggest, however, that preventive war is more likely to be chosen when military leaders, who minimize diplomatic considerations and believe war is inevitable in the long term, have a significant degree of influence over the final decision. While there have not been, obviously, any nuclear preventive wars among the new proliferants, the probability of such attacks will increase since strict centralized civilian control over military organizations is problematic in some new and potential proliferant states (Sagan 2003a: 61).4 These fears rest on a fundamentally sociological view of organizations. Drawing largely from political science classics such as Allison’s Essence of Decision (1971) and Halperin’s Bureaucratic Politics and Foreign Policy (1974), pessimism draws its conclusions about militaries and preventive war from a notion of organizational behavior that makes four basic claims:5 1. Parochial interests. According to this view, organizations tend to protect their own interests first—and military organizations’ singular, centralized dependence on the state for resources forces them to be ferociously protective of their organizational interests (Pfeffer and Salancik 1978). Thus militaries seek support for generous budget appropriations and tend to support government policies that would bring greater resource allocations. 2. Goal displacement. Individuals within organizations are not asked to reconcile all of their actions with the organization’s driving goals. Instead, the logic goes, “boundedly rational” individuals are each assigned small pieces of responsibility—large tasks are carved up and labor is divided to make assignments manageable. The consequence, however, is that decisions within an organization are not made with the organization’s broader objectives in mind. For militaries, this may mean that officers assigned to think only about military issues are prone to support plans for preventive war that may not serve the national interest. This does not mean that military officers are consciously disloyal, but it does suggest that officers tend to conflate the interests of their organization with the broader interests of the nation. 3. Autonomy. Organizations seek to minimize environmental and operational uncertainty by resisting outside control. In this view, interference from politicians in matters of operations and doctrine threatens officers’ ability to control their own fate, so militaries tend to support doctrines that exclude civilians from the planning process and promote military autonomy. 4. Routines. Finally, organizations develop fixed procedures in order to ensure the reliable and efficient performance of predictable tasks. Individuals approach everyday problems by considering available routines and choosing the one that appears to be most appropriate. While such procedures prevent excessive energy from being expended on common tasks, they can be rigidly inflexible even when poorly suited to the problem at hand. Thus, officers accustomed to employing military solutions to problems may draw from their repertoire of military solutions even when such solutions are inappropriate. From these assumptions come four beliefs about military biases; in turn, these beliefs provide the foundation for the argument that proliferation will lead to preventive wars.6 First, according to the theory, military officers are socialized to envision national security as a strictly military problem (Walt 1987; Posen 1984). They undervalue economic and diplomatic aspects of international relations while overemphasizing the importance of the military balance. Consequently, military leaders and civilians think about threats and opportunities very differently. On one hand, military officials see threats where civilians see none. Professionally fixated with the balance of forces, they conflate capabilities with threats and overlook political intentions. On the other hand, officers’ inattention to non-military considerations renders them more likely than civilians to see opportunities to prevent these threats from emerging. The advantages of striking first are exaggerated, while long-term economic and political factors play weakly, if at all, into military cost-benefit calculations (Huntington 1957; Van Evera 1984; Lebow 1987; Schofield 2000). Second, organizational pessimists contend that military leaders tend to overstate the probability of war (Huntington 1957; Snyder 1984; Lovell 1964; Abrahamsson 1969; Janowitz 1960). They view war as an inherent condition of mankind and are cynical about the long-term prospects for avoiding it. For proliferation pessimists,these perceptions prejudice military officers in favor of preventive war: if war cannot be avoided, then a state can improve its chances of winning by utilizing surprise and triggering war before the adversary can fully prepare for it. Third, this interpretation of organization theory states that militaries tend to favor offensive doctrines, of which preventive wars are archetypal. Offensive doctrines are desirable for military organizations in a variety of ways: they minimize uncertainty and maximize decisiveness, allowing a military to fight on its own pre-planned terms; they require vast arms expenditures, directing additional resources to military organizations; they bolster the prestige of military commanders, who stand to win few honors from fighting inglorious wars of attrition; and their technical complexity helps exclude civilians from the planning process (Vagts 1956; Posen 1984; Snyder 1984). While offensive biases predispose officers to favor preventive military action, they also risk inadvertently provoking war, even if parochial biases do not lead military officers to recommend it outright.7 Finally, military officers in this view tend to focus on the immediate costs and benefits of initiating preventive wars while ignoring potential long-term drawbacks. When problems of managing the postwar world are excluded from the decision-making calculus, deterrence is more easily undermined. Pessimists draw much of their empirical support from analyses of American military thinking during the Cold War (Trachtenberg 1988; Rosenberg 1983; Gentile 2000). They contend that in the early stages of the Cold War, the suggestion that the United States “precipitate a major war at a time when we have the greatest potential for winning it” (Nichols 1987: 9-12) enjoyed widespread support—indeed, even becoming the “prevailing philosophy” (Brodie 1953: 1) among high-ranking military officers.8 I argue, however, that **while this view of military organizations may apply to analyses of conventional military stability, it does not** necessarily support gloomy conclusions about the probability of preventive war among emerging nuclear states. In this respect, the discussion of organization theory within the preventive war debate has been at best incomplete. First, there are good reasons to believe that **defensive nuclear doctrines support the organizational goals of militaries in ways that defensive conventional doctrines do not**. On one hand, while conventional defense carries the disadvantage of fighting a war according to somebody else’s “standard scenario,” this is hardly relevant in a nuclear environment, where the offensive seizure of territory has less (and perhaps no) meaning. On the other hand, nuclear survivability—a strictly defensive mission—demands a set of weaponry at least as advanced and diverse as that of the offense. Air defenses, warhead shelters, hardened communication nodes, missile silos, and mobile transporters are just a few of the multifarious countermeasures that may be prepared by emerging nuclear nations. The resources required for a strictly defensive posture consequently may not be significantly less than those required for offense. It is thus problematic to predict offensive nuclear biases strictly from the parochial interests of militaries—it is not clear that such interests are better served by the blind construction of more nuclear weapons. Second, the argument that militaries prefer preventive war as a means to reduce uncertainty and ensure that wars are fought on their terms is not persuasive in a nuclear environment. If organizations seek to avoid uncertainty, as organization theory asserts, one would expect that they would be loathe to take on radical and new endeavors (like launching surprise attacks) for fear of disrupting the predictable status quo. For most organizations, change is to be feared, not embraced—indeed, sociologists have often noted the inability of large organizations to undertake radical innovation when external circumstances demand it (Cyert and March 1963). War—particularly against a near-nuclear rival—is a highly uncertain and risky activity, and militaries bear the brunt of this risk. Consequently, organization theory would expect militaries to be unlikely to favor disrupting a stable operational environment by sending troops into battle unless war with a rival appears absolutely imminent. Third, even if military officers tend to favor preventive war when civilian control is strong, they are unlikely to retain this bias when civilian control is weak. Pessimists argue that militaries focus on pure military logic because their bureaucratic assignments demand that they do so—under civilian-controlled governments, militaries have no responsibilities other than winning wars, and can thus focus strictly on military affairs. Such is not the case, however, when civilian control is minimal. Organization theory suggests that militaries who run the entire government apparatus must think a great deal about diplomatic, economic, and political problems. The narrow military viewpoint that once colored officers’ perceptions of problems, solutions, and consequences thus dissolves, and with it the propensity to favor preventive war.

### Taiwan

#### China growth high, solves war / motivation for preemption

**No China-Taiwan war**

**Steketee 8** 8/19, \*MIKE STEKETEE: NATIONAL AFFAIRS EDITOR, “China unlikely to go to war over Taiwan, says defence expert,” http://www.theaustralian.com.au/news/china-wont-fight-over-taiwan-expert/story-e6frg6t6-1111117233275, AJ

**CHINA is unlikely to be a military threat and the chances of a conflict over Taiwan are diminishing**, according to a US defence expert. "They see this as an inevitable and logical outgrowth of their economic emergence," Professor Pollack said. "For all the shiny new systems they are acquiring, China has not gone to war for 30 years. I don't see them as a kind of budding overlord of East Asia. I don't think that is the way they conceptualise these things." China has reported average real increases in military spending of 9.6per cent in the 15 years to 2005; outside estimates are much higher. The US Defence Department has been among those expressing concern about a military build-up that could put regional balances at risk. Professor Pollack, who has been visiting China for 30 years, said he could not preclude China becoming a military threat, but added: "I just don't see it as terribly likely." Professor Pollack is in Australia as a guest of the Centre for International Security Studies and the US Studies Centre, both at Sydney University. He recently visited Taiwan, whose Government, elected this year, comprised realists who knew they had to try to find a means of dealing with China. "They have to find a way to give China clear incentives to collaborate with them, hopefully in a transition to some longer-term accommodation, the terms of which they don't know yet," Professor Pollack said. "As long as you have a Government in Taipei that is going to work hard to not provoke the Chinese, I would see the probability (of China using military force against Taiwan) diminishing, not increasing, even as China becomes much more capable militarily." He said the US was undergoing a reassessment of long-term strategy following the Cold War, which had been deferred by the September 11, 2001, terror attacks. "A legitimate issue is whether American foreign policy is over-militaristic," he said. "We look at the problems we face in the world and there has been a tendency to think way too quickly about finding a military solution for things for which there may not be a military solution." This was true of Iraq and probably Afghanistan, he said. "(US Defence Secretary) Robert Gates has pointed out that if you look at the number of uniformed personnel on a single Nimitz aircraft carrier - about 6000 - that is more than the foreign service officers in the entire State Department."

**A) Superior US capabilities, economic destruction, loss of CCP legitimacy**

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Chinese leaders acknowledge that U.S. capabilities would be particularly effective against Chinese forces operating in the Taiwan theater. A senior Chinese military officer has lectured his troops that China’s likely adversary in a local war would possess high-technology equipment that could neutralize China’s ability to rely on manpower to defeat the enemy. A civilian analyst has noted that, in a war in China’s coastal region, it would be difficult for the Peo- ple’s Liberation Army (PLA) to take advantage of its superior numbers—as it did during the Korean War—and that the adversary could “make full use of its superiority in air and naval long-range, large-scale, high-accuracy weaponry.”53 A military analyst was more direct, explaining that not only would such superior capabilities seriously restrict China’s ability to seize and maintain sea control around a “large island,” but they would also pose a major threat to China’s coastal political, economic, and military targets.54 Experts at China’s Air Force Command College have concluded that an “air-attack revo- lution” has occurred and that a “generation gap” exists between the high- technology air-attack capabilities of the United States and the “stagnant” air defense capabilities of less advanced countries, causing a “crisis” in air defense.55 Thus China assumes that if the United States intervened in a mainland- Taiwan war, the PLA could not protect its war-fighting capabilities, nor could it prevent U.S. penetration of Chinese airspace. It must also assume that the prospect of victory would be close to nil and that the costs of war and defeat would be massive. Once war began, the United States could target China’s large but backward navy. Even China’s advanced Russian destroyers equipped with highly capable missiles would not contribute to its war-fighting capability, because they lack sufficient stand-off range to challenge U.S. offensive forces. Indeed U.S. capabilities would be even more effective in targeting Chinese surface assets at sea than they have been in targeting enemy assets in deserts, as in the Gulf War and the war in Afghanistan.56 Moreover, China’s air force would likely remain grounded, because neither its pilots nor its aircraft could challenge U.S. air superiority. A U.S. defeat of the PRC, however, would entail more than the loss of Chi- nese military assets. China’s modernization effort would be set back decades. War with the United States would compel China to switch to a wartime econ- omy, requiring the reallocation of resources away from civilian infrastructure development to the large-scale acquisition of outdated military hardware; it would also cost China access to international markets, capital, and high tech- nology. The resulting economic dislocations would defer China’s ability to achieve great power status well into the second half of the twenty-first century.57 Most important, the combination of a military defeat over Taiwan and a domestic economic crisis would challenge the leadership’s core value—continued leadership of China by the CCP. Nationalism and economic performance, the twin pillars of CCP legitimacy, would collapse, bringing down with them party rule.