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#### War powers authority refers to the President’s authority to execute warfighting operations (like TK operations)

Manget, law professor at Florida State and formerly in the Office of the General Counsel at the CIA, No Date

(Fred, “Presidential War Powers,” http://media.nara.gov/dc-metro/rg-263/6922330/Box-10-114-7/263-a1-27-box-10-114-7.pdf)

The fundamental function of the armed forces is to fight or to be ready to fight wars. 40 The Supreme Court has recognized the existence of limited, partial, and undeclared wars:41 Thus, there is a judicially recognized and legitimate activity of the armed services in times of no armed conflict that stems directly from **the war powers authority of the President**. That activity is the preparation for the successful waging of war, which may come in any form or level of conflict. **Any actions of the Executive Branch that** are part of the fundamental functions of the armed services in **ready**ing **for any type of hostility are based on** constitutional **war powers authority of the President**.

Restrict means to limit

American Heritage Dictionary 2000

(http://www.thefreedictionary.com/restrict)

re·strict (r-strkt)

tr.v. re·strict·ed, re·strict·ing, re·stricts

To keep or confine within limits. See Synonyms at limit.

the plan does not restrict executive war power authority—it just moves around oversight jurisdiction

Josh Kuyers, American University Washington College of Law, 4/4/13, CIA or DoD: Clarifying the Legal Framework Applicable to the Drone Authority Debate, nationalsecuritylawbrief.com/2013/04/04/cia-or-dod-clarifying-the-legal-framework-applicable-to-the-drone-authority-debate/

Scholars and practitioners use the term “Title 10 authority” as a catchall phrase to describe the legal authority for military operations. Unfortunately, the use of the term in this way is misleading because “Title 10 – Armed Forces” does not contain actual operational authorities; it merely describes the organizational structure of the Department of Defense. In fact, **the U.S**. military’s true operational **authority stems from the U.S. Constitution and** the President’s **Commander-in-Chief power**.

Like the term “Title 10 authority,” Title 50 authority is a misnomer. Title 50 is often referred to as the CIA’s authority to conduct its intelligence operations and covert actions –like drone strikes. Yet Title 50 of the United States Code is actually titled “War and National Defense.” Thus, it contains much more than just CIA authority. Military personnel can also act under Title 50 authority – a fact often overlooked in news articles and editorials. In fact, the DoD undertakes the majority of intelligence activities under Title 50 authorities.

Like moving drone operations from the CIA to the DoD, the Title 10-Title 50 debate is really about oversight and accountability, particularly congressional oversight.

Title authority shift does not restrict war power authority

Spencer Ackerman, Wired national security correspondent, 3/20/13, Little Will Change If the Military Takes Over CIA’s Drone Strikes, [www.wired.com/dangerroom/2013/03/military-drones/](http://www.wired.com/dangerroom/2013/03/military-drones/)

Nor does the change to military drone control **restrict the relevant legal authorizations** in place. The Obama administration relies on an expansive interpretation of a 2001 congressional authorization to run its global targeted-killing program. If that authorization constrains the military to the “hot” battlefield of Afghanistan, someone forgot to tell the Joint Special Operations Command to get out of Yemen.

Limits – there are 16 different intelligence agencies and multiple military ones that they can shift – creates a proliferation of affs that have no functional difference.

Ground: The core controversy is the President’s authority – not the authority of specific agencies

Precision: It’s a legal topic so clarifying the proper restrictions are especially important

Topicality is a voting issue, or the aff will read a new uncontested aff every debate

Title 10 and 50 are not the source of any warfighting authority—they just clarify bureaucratic oversight roles of military operations

**Wall, 11** (Andru, Senior Associate with Alston & Bird LLP; former senior legal advisor for U.S. Special Operations Command Central (2007 to 2009). "Demystifying the Title 10- Title 50 Debate: Distinguishing Military Operations, Intelligence Activities and Covert Action." Harvard National Security Journal, Volume 3, 2011 from harvardnsj.org/wp-content/uploads/2012/01/Vol.-3\_Wall1.pdf)

There is no rigid separation between Title 10 and Title 50. A more

accurate interpretation is simply that Title 10 clarifies roles and

responsibilities within DoD, while Title 50 clarifies roles and responsibilities

within the intelligence community; both titles explicitly recognize that the

Secretary of Defense has statutory roles and authorities under Title 10 and

under Title 50. Executive Order 12,333 confirms this reading by directing

the Secretary of Defense to collect intelligence for both his department and

the intelligence community writ large. U.S. military doctrine further erodes

any attempted distinction between tactical, operational, and strategic

intelligence: National assets such as intelligence and communications

satellites, previously considered principally in a strategic

context, are an important adjunct to tactical operations.

Actions can be defined as strategic, operational, or tactical

based on their effect or contribution to achieving strategic,

operational, or tactical objectives, but many times the

accuracy of these labels can only be determined during

historical studies.53

Title 50 isnt war powers authority- it’s CIA oversight

**Chesney 12** – (2012, Robert, Charles I. Francis Professor in Law at the University of Texas School of Law, non-resident Senior Fellow of the Brookings Institution, “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate,” JOURNAL OF NATIONAL SECURITY LAW &POLICY, Vol. 5:539)

Leon Panetta appeared on PBS Newshour not long after the raid that

killed Osama bin Laden.1

He was the Director of the Central Intelligence

Agency at that time, and during the course of the interview he took up the

question of the CIA’s role in the attack. It had been “a ‘title 50’ operation,”

he explained, invoking the section of the U.S. Code that authorizes the

activities of the CIA.2 As a result, Panetta added, he had exercised overall

“command.”3

Paragraph prior clarifies that title 50/ title 10 question isn’t the source of authority

 **Chesney** 12 – (2012, Robert, Charles I. Francis Professor in Law at the University of Texas School of Law, non-resident Senior Fellow of the Brookings Institution, “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate,” JOURNAL OF NATIONAL SECURITY LAW &POLICY, Vol. 5:539)

It is worth pausing to clarify the meaning of Title 10 and Title 50

authority. Title 10 of the U.S. Code contains the bulk of the statutes that

regulate the armed services, and the phrase accordingly is routinely used as

a shorthand for the proposition that the military has domestic law

authorization to carry out certain activities. That usage in fact is imprecise.

Regarding the use of military force, as in the context of the conflict with al

Qaeda, **the actual domestic law source of the military’s authority is found**

**not in Title 10 but, rather, in either statutory authorizations for using such**

**force (such as the AUMF) or the executive branch’s inherent authority (and**

**duty) to use force in national self-defense** (founded in Article II of the

Constitution). Nonetheless, Title 10 authority is commonly used in the argot of national security law as a way of referring to quintessentially

military activity. Title 50 is a portion of the U.S. Code that contains a diverse array of

statutes relating to national security and foreign affairs. These include the

standing affirmative grants of authority through which Congress originally

empowered the CIA to carry out its various functions. That set in turn

includes the sweeping language of the so-called fifth function, which the

executive branch has long construed to grant authority to engage in covert

action. Separately, Title 50 also contains the statutes that define covert

action, require presidential findings in support of them, and oblige

notification of them to SSCI and HPSCI. As a result, Title 50 authority has

also become a shorthand, in this case one that refers to the domestic law

authorization for engaging in quintessential intelligence activities such as

intelligence collection and covert action.

Eliminating Title 50 authority doesn’t preclude CIA execution of future Title 10 operations

**Wall, 11** (Andru, Senior Associate with Alston & Bird LLP; former senior legal advisor for U.S. Special Operations Command Central (2007 to 2009). "Demystifying the Title 10- Title 50 Debate: Distinguishing Military Operations, Intelligence Activities and Covert Action." Harvard National Security Journal, Volume 3, 2011 from harvardnsj.org/wp-content/uploads/2012/01/Vol.-3\_Wall1.pdf)

Professor McNeal’s hypothetical evidences a misunderstanding or

mischaracterization of the law and conduct of military operations.18 Military

personnel, including Professor McNeal’s hypothetical “special operations

unit,” operate under military direction and control and under Title 10

authority. CIA personnel operating under a CIA direction and control

operate under Title 50 authorities. CIA personnel operating with military

personnel may use their Title 50 authorities to support a Title 10 operation,

but they would still be operating under Title 50 authority; likewise, a

military unit operating under Title 10 authority could support a Title 50

operation (if they are given such delegated authority).19 In other words,

when an operation is termed a “Title 10” operation, that statutory label

simply refers to the statutory origins of the mission commander’s authority;

this does not preclude other government agencies operating under separate

statutory authorities from using their personnel and resources to support the

“Title 10” operation.

Just a question of WHO can conduct the killing, not whether or not the killing can occur

**Wall, 11** (Andru, Senior Associate with Alston & Bird LLP; former senior legal advisor for U.S. Special Operations Command Central (2007 to 2009). "Demystifying the Title 10- Title 50 Debate: Distinguishing Military Operations, Intelligence Activities and Covert Action." Harvard National Security Journal, Volume 3, 2011 from harvardnsj.org/wp-content/uploads/2012/01/Vol.-3\_Wall1.pdf)

The Title 10-Title 50 debate is essentially a debate about the proper

roles and missions of U.S. military forces and intelligence agencies. “Title

10” is used colloquially to refer to DoD and military operations, while “Title

50” refers to intelligence agencies, intelligence activities, and covert action.3

Concerns about appropriate roles and missions for the military and

intelligence agencies, or the “Title 10-Title 50 issues” as commonly

articulated, can be categorized into four broad categories: authorities,

oversight, transparency, and “rice bowls.”4 The first two concerns,

authorities and oversight, are grounded in statutes and legislative history

and are the focus of this article. The second two concerns, transparency and

“rice bowls,” can be quickly identified and dismissed as policy arguments

rather than legitimate legal concerns

# everything else

# 1nc

## 1

Executive war power primacy now—the plan flips that

Eric Posner, 9/3/13, Obama Is Only Making His War Powers Mightier, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President **Obama has reaffirmed the primacy of the executive** in matters of war and peace. The war powers of the presidency remain as mighty as ever. It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. **That would have been** worthy of notice, **a reversal of the ascendance of executive power over Congress**. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.” Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him. The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.) People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

It spills over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

That goes nuclear

**Li ‘9**

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new. theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

Bioterror causes extinction

Mhyrvold ‘13

Nathan, Began college at age 14, BS and Masters from UCLA, Masters and PhD, Princeton “Strategic Terrorism: A Call to Action,” Working Draft, The Lawfare Research Paper Series

Research paper NO . 2 – 2013

As horrible as this would be, such a pandemic is by no means the worst attack one can imagine, for several reasons. First, most of the classic bioweapons are based on 1960s and 1970s technology because the 1972 treaty halted bioweapons development efforts in the United States and most other Western countries. Second, the Russians, although solidly committed to biological weapons long after the treaty deadline, were never on the cutting edge of biological research. Third and most important, the science and technology of molecular biology have made enormous advances, utterly transforming the field in the last few decades. High school biology students routinely perform molecular-biology manipulations that would have been impossible even for the best superpower-funded program back in the heyday of biological-weapons research. The biowarfare methods of the 1960s and 1970s are now as antiquated as the lumbering mainframe computers of that era. Tomorrow’s terrorists will have vastly more deadly bugs to choose from. Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal virus that infects mice (as chickenpox does in humans), accidentally discovered that a simple genetic modification transformed the virus.10, 11 Instead of producing mild symptoms, the new virus killed 60% of even those mice already immune to the naturally occurring strains of mousepox. The new virus, moreover, was unaffected by any existing vaccine or antiviral drug. A team of researchers at Saint Louis University led by Mark Buller picked up on that work and, by late 2003, found a way to improve on it: Buller’s variation on mousepox was 100% lethal, although his team of investigators also devised combination vaccine and antiviral therapies that were partially effective in protecting animals from the engineered strain.12, 13 Another saving grace is that the genetically altered virus is no longer contagious. Of course, it is quite possible that future tinkering with the virus will change that property, too. Strong reasons exist to believe that the genetic modifications Buller made to mousepox would work for other poxviruses and possibly for other classes of viruses as well. Might the same techniques allow chickenpox or another poxvirus that infects humans to be turned into a 100% lethal bioweapon, perhaps one that is resistant to any known antiviral therapy? I’ve asked this question of experts many times, and no one has yet replied that such a manipulation couldn’t be done. This case is just one example. Many more are pouring out of scientific journals and conferences every year. Just last year, the journal Nature published a controversial study done at the University of Wisconsin–Madison in which virologists enumerated the changes one would need to make to a highly lethal strain of bird flu to make it easily transmitted from one mammal to another.14 Biotechnology is advancing so rapidly that it is hard to keep track of all the new potential threats. Nor is it clear that anyone is even trying. In addition to lethality and drug resistance, many other parameters can be played with, given that the infectious power of an epidemic depends on many properties, including the length of the latency period during which a person is contagious but asymptomatic. Delaying the onset of serious symptoms allows each new case to spread to more people and thus makes the virus harder to stop. This dynamic is perhaps best illustrated by HIV , which is very difficult to transmit compared with smallpox and many other viruses. Intimate contact is needed, and even then, the infection rate is low. The balancing factor is that HIV can take years to progress to AIDS , which can then take many more years to kill the victim. What makes HIV so dangerous is that infected people have lots of opportunities to infect others. This property has allowed HIV to claim more than 30 million lives so far, and approximately 34 million people are now living with this virus and facing a highly uncertain future.15 A virus genetically engineered to infect its host quickly, to generate symptoms slowly—say, only after weeks or months—and to spread easily through the air or by casual contact would be vastly more devastating than HIV . It could silently penetrate the population to unleash its deadly effects suddenly. This type of epidemic would be almost impossible to combat because most of the infections would occur before the epidemic became obvious. A technologically sophisticated terrorist group could develop such a virus and kill a large part of humanity with it. Indeed, terrorists may not have to develop it themselves: some scientist may do so first and publish the details. Given the rate at which biologists are making discoveries about viruses and the immune system, at some point in the near future, someone may create artificial pathogens that could drive the human race to extinction. Indeed, a detailed species-elimination plan of this nature was openly proposed in a scientific journal. The ostensible purpose of that particular research was to suggest a way to extirpate the malaria mosquito, but similar techniques could be directed toward humans.16 When I’ve talked to molecular biologists about this method, they are quick to point out that it is slow and easily detectable and could be fought with biotech remedies. If you challenge them to come up with improvements to the suggested attack plan, however, they have plenty of ideas. Modern biotechnology will soon be capable, if it is not already, of bringing about the demise of the human race— or at least of killing a sufficient number of people to end high-tech civilization and set humanity back 1,000 years or more. That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in mind that it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency been accessible to so few, so easily. Even more dramatically than nuclear proliferation, modern biological science has frighteningly undermined the correlation between the lethality of a weapon and its cost, a fundamentally stabilizing mechanism throughout history. Access to extremely lethal agents—lethal enough to exterminate Homo sapiens—will be available to anybody with a solid background in biology, terrorists included.

## 2

Obama is effectively fighting off Iran sanctions now

Jim Lobe, Inter Press Service 12/27, Iran sanctions bill: Big test of Israel lobby power, http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046

This week’s introduction by a bipartisan group of 26 senators of a new sanctions bill against Iran could result in the biggest test of the political clout of the Israel lobby here in decades.

The White House, which says the bill could well derail ongoing negotiations between Iran and the U.S. and five other powers over Tehran’s nuclear program and destroy the international coalition behind the existing sanctions regime, has already warned that it will veto the bill if it passes Congress in its present form.

The new bill, co-sponsored by two of Congress’s biggest beneficiaries of campaign contributions by political action committees closely linked to the powerful American Israel Public Affairs Committee (AIPAC), would impose sweeping new sanctions against Tehran if it fails either to comply with the interim deal it struck last month in Geneva with the P5+1 (U.S., Britain, France, Russia, China plus Germany) or reach a comprehensive accord with the great powers within one year.

To be acceptable, however, such an accord, according to the bill, would require Iran to effectively dismantle virtually its entire nuclear program, including any enrichment of uranium on its own soil, as demanded by Israeli Prime Minister Benjamin Netanyahu.

The government of President Hassan Rouhani has warned repeatedly that such a demand is a deal-breaker, and even Secretary of State John Kerry has said that a zero-enrichment position is a non-starter.

The bill, the Nuclear Weapon Free Iran Act, also calls for Washington to provide military and other support to Israel if its government “is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program.”

The introduction of the bill last week by Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez followed unsuccessful efforts by both men to get some sanctions legislation passed since the Geneva accord was signed Nov. 24.

Kirk at first tried to move legislation that would have imposed new sanctions immediately in direct contradiction to a pledge by the P5+1 in the Geneva accord to forgo any new sanctions for the six-month life of the agreement in exchange for, among other things, enhanced international inspections of Iran’s nuclear facilities and a freeze on most of its nuclear program.

Unable to make headway, Kirk then worked with Menendez to draw up the new bill which, because of its prospective application, would not, according to them, violate the agreement. They had initially planned to attach it to a defense bill before the holiday recess. But the Democratic leadership, which controls the calendar, refused to go along.

Their hope now is to pass it – either as a free-standing measure or as an amendment to another must-pass bill after Congress reconvenes Jan. 6.

To highlight its bipartisan support, the two sponsors gathered a dozen other senators from each party to co-sponsor it.

Republicans, many of whom reflexively oppose President Barack Obama’s positions on any issue and whose core constituencies include Christian Zionists, are almost certain to support the bill by an overwhelming margin. If the bill gets to the floor, **the main battle will thus take place within the Democratic majority**.

The latter find themselves torn between, on the one hand, their loyalty to Obama and their fear that new sanctions will indeed derail negotiations and thus make war more likely, and, on the other, their general antipathy for Iran and the influence exerted by AIPAC and associated groups as a result of the questionable perception that Israel’s security is uppermost in the minds of Jewish voters and campaign contributors (who, by some estimates, provide as much as 40 percent of political donations to Democrats in national campaigns).

The administration clearly hopes the Democratic leadership will prevent the bill from coming to a vote, but, if it does, persuading most of the Democrats who have already endorsed the bill to change their minds will be an uphill fight. If the bill passes, the administration will have to muster 34 senators of the 100 senators to sustain a veto – a difficult but not impossible task, according to Congressional sources.

That battle has already been joined. Against the 13 Democratic senators who signed onto the Kirk-Menendez bill, 10 Democratic Senate committee chairs urged Majority Leader Harry Reid, who controls the upper chamber’s calendar, to forestall any new sanctions legislation.

The plan’s authority restriction is a loss for Obama—causes defections

Dr. Andrew J. Loomis, Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, 3/2/2007, Leveraging legitimacy in the crafting of U.S. foreign policy, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

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

Those defections overwhelm Obama—results in new sanctions that collapse negotiations and cause war

**Davnie 1/5** (William Davnie, retired after 26 years in the Foreign Service, served as chief of staff in the office of provincial affairs in Iraq, AND Kate Gould, the legislative associate for Middle East policy at the Friends Committee on National, “Iran sanctions bill threatens progress; pressure is on Franken, Klobuchar”, Star Tribune, January 5, 2014, <http://www.startribune.com/opinion/commentaries/238660021.html>)

The historic Geneva deal to limit Iran’s nuclear program is scheduled to go into effect later this month. Once it does, the world will be farther away from a devastating war and a nuclear-armed Iran. As U.S. Rep. Betty McCollum, D-Minn., rightly pointed out, “this initial deal is a triumph for engagement and tough diplomacy.” However, **the U.S. Senate could reverse that progress through a vote on new sanctions as early as this week,** putting the United States and Iran on a collision course toward war.

For the first time in a decade, the Geneva deal presses pause on Iran’s nuclear program, and presses the rewind button on some of the most urgent proliferation concerns. In exchange, the United States has committed to pause the expansion of its sanctions regime, and in fact rewind it slightly with limited sanctions relief. **Imposing new sanctions now would be just as clear a violation of the Geneva agreement as it would be for Iran to expand its nuclear program.**

That’s why the Obama administration has committed to vetoing any such measures and has warned that torpedoing the talks underway could put our country on a march toward war. A recent, unclassified intelligence assessment concurred with the White House’s caution, asserting that new sanctions “would undermine the prospects for a successful comprehensive nuclear agreement with Iran.”

However, in an open rebuke of the White House, the intelligence community and the 10 Senate committee chairs who cautioned against new sanctions, Sens. Robert Menendez, D-N.J.; Chuck Schumer, D-N.Y., and Mark Kirk, R-Ill., have introduced a bill (S. 1881) to impose new oil and financial sanctions on Iran.

Supporters of this measure stress that new sanctions would take effect only if Iran violates the Geneva agreement or fails to move toward a final deal at the end of the six-month negotiation period. And some dismiss this congressional threat as toothless, given President Obama’s vow to veto any sanctions legislation. But **simply passing these sanctions would dangerously escalate tensions with Iran**. U.S. Rep. Keith Ellison, D-Minn., put it best: “**New sanctions stand to kill any hope for diplomacy.”**

Already, anti-Geneva-deal counterparts in Iran’s parliament have responded with their own provocation, introducing legislation to require Iran to enrich near weapons grade if the United States imposes new sanctions.

Like the Senate sanctions bill, the Iranian parliament’s legislation would have a delayed trigger. Like the Senate bill, the mere introduction of this reckless legislation isn’t a violation of the letter of the Geneva agreement per se. But **both bills risk** restarting the vicious cycle of confrontation **that has defined the U.S.-Iran relationship for decades.**

Without a significant public outcry, **support for this sanctions bill could potentially reach a veto-proof majority** of 67 senators and 290 representatives in the House.

Minnesota could play an important role in this showdown between supporters of using hard-nosed diplomacy to avoid military action and reduce nuclear risk, and those who would upend sensitive negotiations and make war likely. About half of the senators have staked out their positions, but neither Sen. Amy Klobuchar nor Sen. Al Franken have yet taken a public stance.

Minnesota is one of just 10 states where neither senator has taken a public position on whether or not to sign onto **sanctions** that **would sink the deal — and** risk another war in the Middle East.

While some new-sanctions proponents are banking on partisan politics to earn support from Republicans, it would still take seven of the remaining 23 undecided Democrats, along with all Republicans, to reach a veto-proof majority. All eyes will be on those 23 undecided Democrats — including Klobuchar and Franken.

Nuclear war

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

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

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.

There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.

n-player competition

Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

## 4

The affirmative re-inscribes the primacy of liberal legalism as a method of restraint—that paradoxically collapses resistance to Executive excesses.

**Margulies ‘11**

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In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

Legalism underpins the violence of empire and creates the conditions of possibility for liberal violence.

Dossa ‘99

Shiraz, Department of Political Science, St. Francis Xavier University, Antigonish, Nova Scotia, “Liberal Legalism: Law, Culture and Identity,” The European Legacy, Vol. 4, No. 3, pp. 73-87,1

No discipline in the rationalized arsenal of modernity is as rational, impartial, objective as the province of law and jurisprudence, in the eyes of its liberal enthusiasts. Law is the exemplary countenance of the conscious and calculated rationality of modern life, **it is the** emblematic face of liberal civilization. Law and legal rules symbolize the spirit of science, the march of human progress. As Max Weber, the reluctant liberal theorist of the ethic of rationalization, asserted: judicial formalism enables the legal system to operate like a technically **rational machine**. Thus it guarantees to individuals and groups within the system a relative of maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their action. In this reading, law encapsulates the western capacity to bring order to nature and human beings, to turn the ebb and flow of life into a "rational machine" under the tutelage of "judicial formalism".19 Subjugation of the Other races in the colonial empires was motivated by power and rapacity, but it was justified and indeed rationalized, by an appeal to the civilizing influence of religion and law: western Christianity and liberal law. To the imperialist mind, "the civilizing mission of law" was fundamental, though Christianity had a part to play in this program.20 Liberal colonialists visualized law, civilization and progress as deeply connected and basic, they saw western law as neutral, universally relevant and desirable. The first claim was right in the liberal context, the second thoroughly false. In the liberal version, the mythic and irrational, emblems of thoughtlessness and fear, had ruled all life-forms in the past and still ruled the lives of the vast majority of humanity in the third world; in thrall to the majesty of the natural and the transcendent, primitive life flourished in the environment of traditionalism and lawlessness, hallmarks of the epoch of ignorance. By contrast, liberal ideology and modernity were abrasively unmythic, rational and controlled. Liberal order was informed by knowledge, science, a sense of historical progress, a continuously improving future. But this canonical, secular, bracing self-image, is tendentious and substantively illusory: it blithely scants the bloody genealogy and the extant historical record of liberal modernity, liberal politics, and particularly liberal law and its impact on the "lower races" (Hobson). In his Mythology of Modern Law, Fitzpatrick has shown that the enabling claims of liberalism, specifically of liberal law, are not only untenable but implicated in canvassing a racist justification of its colonial past and in eliding the racist basis of the structure of liberal jurisprudence.21 Liberal law is mythic in its presumption of its neutral, objective status. Specifically, the liberal legal story of its immaculate, analytically pure origin obscures and veils not just law's own ruthless, violent, even savage and disorderly trajectory, but also its constitutive association with imperialism and racism.22 In lieu of the transcendent, divine God of the "lower races", modern secular law postulated the gods of History, Science, Freedom. Liberal law was to be the instrument for realizing the promise of progress that the profane gods had decreed. Fitzpatrick's invasive surgical analysis lays bare the underlying logic of law's self-articulation in opposition to the values of cultural-racial Others, and its strategic, continuous reassertion of liberalism's superiority and the civilizational indispensability of liberal legalism. Liberal law's self-presentation presupposes a corrosive, debilitating, anarchic state of nature inhabited by the racial Others and lying in wait at the borders of the enlightened modern West. This mythological, savage Other, creature of raw, natural, unregulated fecundity and sexuality, justified the liberal conquest and control of the racially Other regions.23 Law's violence and resonant savagery on behalf of the West in its imperial razing of cultures and lands of the others, has been and still is, justified in terms of the necessary, beneficial spread of liberal civilization. Fitzpatrick's analysis parallels the impassioned deconstruction of this discourse of domination initiated by Edward Said's Orientalism, itself made possible by the pioneering analyses of writers like Aime Cesaire and Frantz Fanon. Fitzpatrick's argument is nevertheless instructive: his focus on law and its machinations unravels the one concrete province of imperial ideology that is centrally modern and critical in literally transforming and refashioning the human nature of racial Others. For liberal law carries on its back the payload of "progressive", pragmatic, **instrumental modernity**, its ideals of order and rule of law, its articulation of human rights and freedom, its ethic of procedural justice, its hostility to the sacred, to transcendence or spiritual complexity, its recasting of politics as the handmaiden of the nomos, its valorization of scientism and rationalization in all spheres of modern life. Liberal law is not synonymous with modernity tout court, but it is the exemplary voice of its rational spirit, **the custodian of its civilizational ambitions.** For the colonized Others, no non-liberal alternative is available: a non-western route to economic progress is inconceivable in liberal-legal discourse. For even the truly tenacious in the third world will never cease to be, in one sense or another, the outriders of modernity: their human condition condemns them to **playing perpetual catch-up**, eternally subservient to Western economic and technological superiority in a epoch of self-surpassing modernity.24 If the racially Other nations suffer exclusion globally, the racially other minorities inside the liberal loop enjoy the ambiguous benefits of inclusion. As legal immigrants or refugees, they are entitled to the full array of rights and privileges, as citizens (in Canada, France, U.K., U.S—Germany is the exception) they acquire civic and political rights as a matter of law. Formally, they are equal and equally deserving. In theory liberal law is inclusive, but concretely it is routinely **partial and invidious**. Inclusion is conditional: it depends on how robustly the new citizens wear and deploy their cultural difference. Two historical facts account for this phenomenon: liberal law's role in western imperialism and the Western claim of civilizational superiority that pervades the culture that sustains liberal legalism. Liberal law, as the other of the racially Other within its legal jurisdiction, differentiates and locates this other in the enemy camp of the culturally raw, irreducibly foreign, making him an unreliable ally or citizen. Law's suspicion of the others socialized in "lawless" cultures is instinctive and undeniable. Liberal law's constitutive bias is in a sense incidental: the real problem is racism or the racist basis of liberal ideology and culture.25 The internal racial other is not the juridical equal in the mind of liberal law but the juridically and humanly inferior Other, the perpetual foreigner.

The alternative is to vote negative to endorse political, rather than legal restrictions on Presidential war powers authority.

**Goldsmith ‘12**

Jack, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March 2012, Power and Constraint, p. 205-209

DAVID BRIN is a science-fiction writer who in 1998 turned his imagination to a nonfiction book about privacy called The Transparent Society. Brin argued that individual privacy was on a path to extinction because government surveillance tools—tinier and tinier cameras and recorders, more robust electronic snooping, and bigger and bigger databases—were growing irreversibly more powerful. His solution to this attack on personal space was not to erect privacy walls, which he thought were futile, but rather to induce responsible government action by turning the surveillance devices on the government itself. A government that citizens can watch, Brin argued, is one subject to criticism and reprisals for its errors and abuses, and one that is more careful and responsible in the first place for fear of this backlash. A transparent government, in short, is an accountable one. "If neo-western civilization has one great trick in its repertoire, a technique more responsible than any other for its success, that trick is accountability," Brin argues, "[e]specially the knack—which no other culture ever mastered—of making accountability apply to the mighty."' Brin's notion of reciprocal transparency is in some ways the inverse of the penological design known as a "panopticon," made famous by the eighteenth-century English utilitarian philosopher Jeremy Bentham. Bentham's brother Samuel had designed a prison in Paris that allowed an "inspector" to monitor all of the inmates from a central location without the prisoners knowing whether or when they were being watched (and thus when they might be sanctioned for bad behavior). Bentham described the panopticon prison as a "new mode of obtaining power of mind over mind" because it allowed a single guard to control many prisoners merely by conveying that he might be watching.' The idea that a "watcher" could gain enormous social control over the "watched" through constant surveillance backed with threats of punishment has proved influential. Michel Foucault invoked Bentham's panopticon as a model for how modern societies and governments watch people in order to control them.' George Orwell invoked a similar idea three decades earlier with the panoptical telescreen in his novel 1984. More recently, Yale Law School professor Jack Balkin used the panopticon as a metaphor for what he calls the "National Surveillance State," in which governments "use surveillance, data collection, and data mining technologies not only to keep Americans safe from terrorist attacks but also to prevent ordinary crime and deliver social services." **The direction of the panopticon can be reversed, however, creating a "synopticon" in which many can watch one, including the government**.' The television is a synopticon that enables millions to watch the same governmental speech or hearing, though it is not a terribly robust one because the government can control the broadcast. Digital technology and the Internet combine to make a more powerful synopticon that allows many individuals to record and watch an official event or document in sometimes surprising ways. Video recorders placed in police stations and police cars, cell-phone video cameras, and similar tools increase citizens' ability to watch and record government activity. This new media content can be broadcast on the Internet and through other channels to give citizens synoptical power over the government—a power that some describe as "sousveillance" (watching from below)! These and related forms of watching can have a disciplining effect on government akin to Brin's reciprocal transparency. The various forms of watching and checking the presidency described in this book constitute a vibrant presidential synopticon. Empowered by legal reform and technological change, the "many"—in the form of courts, members of Congress and their staff, human rights activists, journalists and their collaborators, and lawyers and watchdogs inside and outside the executive branch—constantly gaze on the "one," the presidency. Acting alone and in mutually reinforcing networks that crossed organizational boundaries, these institutions extracted and revealed information about the executive branch's conduct in war—sometimes to adversarial actors inside the government, and sometimes to the public. The revelations, in turn, forced the executive branch to account for its actions and enabled many institutions to influence its operations. **The presidential synopticon** also **promoted responsible executive action merely through its broadening gaze.** One consequence of a panopticon, in Foucault's words, is "to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power."' The same thing has happened in reverse but to similar effect within the executive branch, where officials are much more careful merely by virtue of being watched. The presidential synopticon is in some respects not new. Victor Davis Hanson has argued that "war amid audit, scrutiny, and self-critique" has been a defining feature of the Western tradition for 2,500 years.' From the founding of the nation, American war presidents have been subject to intense scrutiny and criticism in the unusually open society that has characterized the United States. And many of the accountability mechanisms described in this book have been growing since the 1970s in step with the modern presidency. What is new, however, is the scope and depth of these modern mechanisms, their intense legalization, and their robust operation during wartime. In previous major wars the President determined when, how, and where to surveil, target, detain, transfer, and interrogate enemy soldiers, often without public knowledge, and almost entirely without unwanted legal interference from within the executive branch itself or from the other branches of government.' Today these **decisions are known inside and outside the government to an unprecedented degree** and are heavily regulated by laws and judicial decisions that are enforced daily by lawyers and critics inside and outside the presidency. Never before have Congress, the courts, and lawyers had such a say in day-to-day military activities; never before has the Commander in Chief been so influenced, and constrained, by law. This regime has many historical antecedents, but it came together and hit the Commander in Chief hard for the first time in the last decade. It did so because of extensive concerns about excessive presidential power in an indefinite and unusually secretive war fought among civilians, not just abroad but at home as well. These concerns were exacerbated and given credibility by the rhetoric and reality of the Bush administration's executive unilateralism—a strategy that was designed to free it from the web of military and intelligence laws but that instead galvanized forces of reaction to presidential power and deepened the laws' impact. Added to this mix were enormous changes in communication and collaboration technologies that grew to maturity in the decade after 9/11. These changes helped render executive branch secrets harder to keep, and had a flattening effect on the executive branch just as it had on other hierarchical institutions, making connections between (and thus accountability to) actors inside and outside the presidency **much more extensive**.

## 5

Text: The United States executive branch should issue an executive order that all Title 50 targeted killing operations by the Central Intelligence Agency using remotely piloted aircraft systems should immediately cease, and be transferred to Title 10 authority. The United States Supreme Court should rule that all standards and procedures regarding targeted killing be made transparent. In this litigation, the executive branch should clarify that these standards and procedures are not state secrets.

Transparency solves

**Wall, 11** (Andru, Senior Associate with Alston & Bird LLP; former senior legal advisor for U.S. Special Operations Command Central (2007 to 2009). "Demystifying the Title 10- Title 50 Debate: Distinguishing Military Operations, Intelligence Activities and Covert Action." Harvard National Security Journal, Volume 3, 2011 from harvardnsj.org/wp-content/uploads/2012/01/Vol.-3\_Wall1.pdf)

Before delving into the law, we must first dismiss the policy arguments

masquerading as Title 10-Title 50 issues. Transparency is the most

amorphous concern in the Title 10-Title 50 debate. Often unacknowledged,

the essence of this concern is the belief that intelligence operatives live in a

dark and shadowy world, while military forces are the proverbial knights on

white horses.5 Advocates of military transparency want to ensure the

reputation of America’s men and women in uniform remains untarnished

by association with the shadowy world of espionage.6 For these people, the

Title 10-Title 50 debate is a debate about whether military forces should be

engaged in “secret operations” or “go over to the dark side.”7 Because secret operations (used here in the colloquial sense that includes covert and

clandestine operations) often require operating out of uniform, there are

also concerns that military forces conducting such operations could lose

protections under the Geneva Conventions (e.g., treatment as prisoners of

war rather than as spies), increase risks to all U.S. military personnel serving

abroad, and possibly endanger morale by sacrificing what is viewed as the

moral high ground.8

Their ev concludes that transparency is key to perception- otherwise they don’t solve

- read blue

**Waxman 13** – (3/20, Matthew, law professor at Columbia Law School, co-chair, Roger Hertog Program on Law and National Security, Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations, member of the Hoover Institution Task Force on National Security and Law, “Going Clear,” Foreign Policy, http://www.foreignpolicy.com/articles/2013/03/20/going\_clear?wp\_login\_redirect=0)

Although technically "covert" and carried out under statutory and presidential authorities designed to preserve "plausible deniability," it's an open secret that the CIA has been conducting counterterrorism strikes in places like Pakistan and Yemen. The U.S. military conducts similar strikes, usually through Joint Special Operations Command, including in Yemen and Somalia. Many argue that these strikes are illegal or counterproductive -- regardless of who conducts them -- because they deny targeted suspects legal process, violate national sovereignty, cause collateral damage, and fuel radicalism. Others believe, however, that these problems are compounded when the CIA is in charge because of the secrecy and impunity with which it operates.

In truth, critics often underestimate oversight of CIA activities and overestimate the openness of military operations. Even if the Pentagon conducts all U.S. drone strikes, the operational details will still be shrouded in secrecy, the CIA will still provide targeting information, and much of the congressional oversight will still be conducted behind closed doors (though it will shift from the intelligence committees to the armed services committees). The CIA is also subject to some statutory congressional reporting requirements that the Defense Department is not. That said, moving all strikes under Defense Department control and eliminating their officially covert status will probably allow executive branch officials and members of Congress to **speak more clearly and openly about general policy** in this area.

With regard to the legal rules that govern targeting, it may be that shifting operations to the Defense Department will promote stricter compliance. In a 2012 speech, the CIA general counsel stated that the agency conducts its operations "in a manner consistent with the...basic principles in the law of armed conflict" -- not that the CIA is legally required to comply with the rules -- which led many to wonder whether the agency was operating outside their bounds. The military is also much better practiced than the CIA in applying the law of armed conflict and assessing collateral damage. **Even if the CIA has in reality been fully compliant, it is in the U.S. interest to promote these international legal rules by communicating unambiguously and demonstrating its own normative commitment to them**. Those are things that the military is much better able to do, on account of tradition, institutional culture, and legal requirements.

The status quo is always an option – proving the CP worse does not justify the plan. Logical decision-making is the most portable skill.

And, presumption remains negative—the counterplan is less change and a tie goes to the runner.

## solvency

Obama will circumvent the plan -- EMPIRICS

Kumar, McClatchy Newspapers, 13

(Anita, 3-19-13, “Obama turning to executive power to get what he wants,” http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE, accessed 10-18-13, CMM)

President Barack Obama came into office four years ago skeptical of pushing the power of the White House to the limit, especially if it appeared to be circumventing Congress.¶ Now, as he launches his second term, Obama has grown more comfortable wielding power to try to move his own agenda forward, particularly when a deeply fractured, often-hostile Congress gets in his way.¶ He’s done it with a package of tools, some of which date to George Washington and some invented in the modern era of an increasingly powerful presidency. And he’s done it with a frequency that belies his original campaign criticisms of predecessor George W. Bush, invites criticisms that he’s bypassing the checks and balances of Congress and the courts, and whets the appetite of liberal activists who want him to do even more to advance their goals.¶ While his decision to send drones to kill U.S. citizens suspected of terrorism has garnered a torrent of criticism, his use of executive orders and other powers at home is deeper and wider.¶ He delayed the deportation of young illegal immigrants when Congress wouldn’t agree. He ordered the Centers for Disease Control and Prevention to research gun violence, which Congress halted nearly 15 years ago. He told the Justice Department to stop defending the Defense of Marriage Act, deciding that the 1996 law defining marriage as between a man and a woman was unconstitutional. He’s vowed to act on his own if Congress didn’t pass policies to prepare for climate change.¶ Arguably more than any other president in modern history, he’s using executive actions, primarily orders, to bypass or pressure a Congress where the opposition Republicans can block any proposal.¶ “It’s gridlocked and dysfunctional. The place is a mess,” said Rena Steinzor, a law professor at the University of Maryland. “I think (executive action) is an inevitable tool given what’s happened.”¶ Now that Obama has showed a willingness to use those tactics, advocacy groups, supporters and even members of Congress are lobbying him to do so more and more.¶ The Center for Progressive Reform, a liberal advocacy group composed of law professors, including Steinzor, has pressed Obama to sign seven executive orders on health, safety and the environment during his second term.¶ Seventy management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While s. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

The executive will never comply

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, March 2011, The Executive Unbound, p. 11-12

Liberal legalism's struggles with delegation and emergencies are symptomatic of a core underlying problem, which is that it gets the center of institutional gravity wrong. In the administrative state, it is not the case that legislatures govern, even subject to constraints and the need for cooperation with other branches. Rather the executive governs, in the sense that it drives the policy agenda even where the cooperation of other branches is needed for political reasons. The fraction of time that Congress spends occupied with the president's agenda has steadily increased over the years.2° Moreover, in many domains, the executive—most dramatically the president, but the agencies as well—can proceed through unilateral action. Although the Constitution, read literally, gives the president few express unilateral powers, he enjoys (and agencies enjoy) a mass of delegated powers, whose breadth and ambiguity mean that there is usually some statute or other in the picture to which the president or an agency can plausibly appeal. Even more important, legal analysts often go wrong by overlooking that the "presidential power of unilateral action" is a de facto power as well as a de jure one. **The executive**—alone of national institutions—**has the capacity to take action in the real world,** outside the law books, and that action changes the status quo facing other institutions. Where it is more difficult for those institutions to undo the new status quo the executive has set than it would have been to block the change initially, **the power of unilateral de facto action becomes highly consequential**. In the American quadricameral lawmaking system (president, House, Senate, and Supreme Court) de jure change can often be blocked, and the executive's power to change the status quo unilaterally and de facto is accordingly critical. Sometimes the executive will have strictly **political incentives** to obtain congressional support,22 but this is not a legal constraint, and if anything it underscores the failure of the separation-of-powers framework central to liberal legal theory. A corollary is that **the executive's power can** sometimes **be exercised in defiance or violation of statutes, even where they** arguably or indeed **clearly prohibit what the executive has done**, so long as the executive can block retaliation by other branches after the fact. When President Clinton violated the War Powers Resolution in Kosovo, the military action created new facts in the world to which Congress and other actors had to adjust, regardless of the legal niceties. This is an old theme in American politics—when Lincoln exceeded his legal powers at the beginning of the Civil War, Congress had little choice but to ratify the fait accompli—but in the administrative state, the president's power to affect the world in this way, whatever the law books might say, has grown enormously.

## intel/ cia

They don’t solve intelligence gathering- there isn’t a SINGLE piece of reverse causal evidence

Dowd disagrees with the plan- her article is a critique of ALL drone use- also not reverse causal- plan doesn’t mean MORE countries suddenly give cooperate with us over intel

**1AC Author, Dowd 13** – (4/16, Maureen, NYT, “The CIA’s Angry Birds,” http://www.nytimes.com/2013/04/17/opinion/the-cias-angry-birds.html?\_r=0#h[])

Over the winter, I heard military commanders and White House officials murmur in hushed tones about how they would have to figure out a legal and moral framework for the flying killer robots executing targets around the globe.

They were starting to realize that, while the American public approves of remotely killing terrorists, it is a drain on the democratic soul to zap people with no due process and little regard for the loss of innocents.

But they never got around to it, leaving Rand Paul to take the moral high ground.

After two bloody, money-sucking, never-ending wars in Afghanistan and Iraq, the idea of a weapon for war that precluded having anyone actually go to war was too captivating. Our sophisticated, sleek, smart, detached president was ensorcelled by our sophisticated, sleek, smart, detached war machine.

In an interview with Jon Stewart last year, President Obama allowed that he was in the grip of a powerful infatuation. “One of the things that we’ve got to do is put a legal architecture in place,” he said, “and we need Congressional help to do that to make sure that not only am I reined in, but any president is reined in.”

America’s secret drone program, continually lowering the bar for lethal action, turns the president, the C.I.A. director and counterterrorism advisers into a star chamber running a war beyond war zones that employs a scalpel rather than a hammer, as the new Langley chief, John Brennan, puts it.

But as The Times’s Mark Mazzetti notes in his new book, “The Way of the Knife,” “the analogy suggests that this new kind of war is without costs or blunders — a surgery without complications. This isn’t the case.”

Mazzetti raises the issue of whether the C.I.A. — which once sold golf shirts with Predator logos in its gift shop — became “so enamored of its killer drones that it wasn’t pushing its analysts to ask a basic question: To what extent might the drone strikes be creating more terrorists than they are actually killing?”

Mazzetti writes that Sir Richard Dearlove, the head of MI6, the British Secret Intelligence Service, watched one of the first drone strikes via satellite at Langley a few weeks after 9/11. As he saw a Mitsubishi truck in Afghanistan being blown up, Dearlove smiled wryly. “It almost isn’t sporting, is it?” the Brit asked.

In the run-up to the Iraq war, Donald Rumsfeld and his hawkish inner circle were disgusted that the C.I.A. dismissed their spurious claims of a connection between Saddam and Al Qaeda, so they set up their own C.I.A. at the Pentagon. Soldiers became spies.

Meanwhile, the C.I.A. was setting up its own Pentagon at Langley, running the ever-expanding paramilitary drone operation. Spies became soldiers.

Mazzetti writes that after 9/11, the C.I.A. director morphed into “a military commander running a clandestine, global war with a skeleton staff and very little oversight.” Why did the C.I.A., as Gen. James Cartwright asked when he was the vice chairman of the Joint Chiefs of Staff, need to build “a second Air Force”?

Leon Panetta made the C.I.A. far more militarized and then went to the Pentagon. When an actual military commander, David Petraeus, became head spook in 2011, he embraced the drone program, pushed to expand the fleet and conducted the first robo-targeted killing of an American citizen.

“A spy agency that on September 11, 2001, had been decried as bumbling and risk-averse had, under the watchful eye of four successive C.I.A. directors, gone on a killing spree,” Mazzetti writes.

The C.I.A. now has a drone base in Saudi Arabia, and both the Pentagon and the spy agency are running parallel drone wars in Yemen, each fighting for resources. And the Pentagon continues its foray into human spying. As W. George Jameson, a lawyer who spent 33 years at the C.I.A., lamented: “Everything is backwards. You’ve got an intelligence agency fighting a war and a military organization trying to gather on-the-ground intelligence.”

Mazzetti observes that the C.I.A., playing catch-up through so much of the Arab Spring, has turned a perilous corner, where a new generation at Langley much prefers “the adrenaline rush of being at the front lines” hunting and killing to the more patient, tedious, “gentle” work of intelligence gathering and espionage. Relying on foreign spies for counterterrorism information can blind you to what is really happening on the ground.

Ross Newland, a career clandestine officer, told Mazzetti that the allure of killing people by remote control is “catnip,” and that the agency should have given up Predators and Reapers long ago. The death robots have turned the C.I.A. into the villain in places like Pakistan, Newland said, where the agency’s mission is supposed to be nurturing relationships to gather intelligence.

President Obama, who continued nearly every covert program handed down by W., clearly feels tough when he talks about targeted killings, and considers drones an attractive option. As Mazzetti says, “fundamental questions about who can be killed, where they can be killed, and when they can be killed” still have not been answered or publicly discussed.

It almost isn’t sporting, is it?

Their Scahill evidence doesn’t make sense with the rest of the aff- it’s a critique of General Patraeus and concludes that the CIA isn’t allocated resources to intel gathering- the plan obviously doesn’t change that because they don’t have a single piece of reverse causal evidence that indicates that the CIA would switch to collecting intel post plan

The next paragraph of Divoll concludes that a new CIA officer is necessary- plan insufficient

**Divoll 12 –** (12/3, Vicki, former general counsel to the Senate Select Committee on Intelligence and former deputy legal adviser of C.I.A.’s Counterterrorist Center, “Stick to the Basic Tasks It Was Created For,” NYT, http://www.nytimes.com/roomfordebate/2012/12/03/a-new-director-or-a-new-direction-for-the-cia/stick-to-the-basic-tasks-it-was-created-for)

The focus of the men and women of the C.I.A. – indeed, the entire culture of the agency – has been hijacked for purposes that are contrary to its original mission. It does not take an intelligence expert to imagine the vast amount of human and technical resources it has taken to identify and locate 2,500 people that were found to have met the standards to justify killing them, according to a [recent Times article](http://www.nytimes.com/2012/11/25/world/white-house-presses-for-drone-rule-book.html?pagewanted=all), and to conduct operations to do so. [HARVARD STOPS]

We need a calm, professional intelligence officer who understands that the agency’s traditional mission – collection, analysis, prediction -- is not obsolete. We need a quiet, even boring, person who shrinks from, rather than seeks, the limelight. We need that leader now, perhaps more than we ever have before.

You can’t seriously be reading a card by Tenet as your CIA solves everything card- he was just appointed as Director and is obviously biased and inclined to think that the agency he heads is the most important

Prados says no covert ops should exist

1ac prados cite

This brings us to the final, legal questions. I have consistently held, and

still do, that no legal authority for covert operations exists under the U.S.

Constitution. The underpinning for presidential approval of covert

operations rests entirely on the ambiguous “such other functions” clause of

the National Security Act of 1947. The CIA’s own General Counsel

concluded on multiple occasions that covert operations did not fall within

the scope of that language.

**2 problems with Prados: 1) It describes the cp, not the plan and 2) it doesn’t say we would begin gathering more intel**

**Prados 12** – (2012, John, Senior Fellow and Co-Director of the Iraq Documentation Project, and Director of the Vietnam Project at the National Security Archive at The George Washington University, “The Continuing Quandary of Covert Operations,” JOURNAL OF NATIONAL SECURITY LAW &POLICY, Vol. 5:359)

Reviving the covert operations capability from its present atrophied state immediately raises overarching questions as to the suitability and constitutionality of covert operations techniques. The issues need to be addressed much more systematically. Within the terms of this discussion, **a branch able to do little more than rent armies is not a proper covert operations unit**. Moreover, the present formula of a high tech marriage between secret intelligence – primarily technical collection – and remote action (drones) is not a robust covert action capability either. It is attractive. Much like reconnaissance satellites, such mechanisms can be managed and budgeted with some ease, and have a certain apparent responsiveness. But that does not make them supple instruments, nor does such activity amount to a covert operation. **At the core, it is a conventional military action.**

The Pakistanis today complain of a drone campaign out of control and they are right. **When the drones are striking, on average, every three days, that is aerial interdiction, not a targeted covert operation**. CIA lawyers insist that every individual drone target is selected from careful accumulation of evidence resulting in a proposal to neutralize, put in a memorandum and approved at a high level. That is not possible, given the number of targets struck, without expanding the target set far beyond the top levels of adversary leadership. Former CIA Director Panetta has affirmed that al Qaeda activists still in the region number only forty to fifty persons. By Pakistani accounts, most Predators now strike much lower level operatives, and of the Taliban, not al Qaeda. This follows perfectly from the fact that the top leaders have learned to exercise complete communications security, while CIA high technology surveillance depends on those data to acquire the targets. The drones are fishing, and the big fish are not biting. The bin Laden attack – apart from potential controversies about his assassination, or U.S. relations with Pakistan – shows that old school methods still work. Someone off the grid could be hunted down and dealt with. But the momentum of the technologically-driven covert operation has arguably reached the point of no return. **This is not an intelligence approach; it is a military one**. Today’s CIA is increasingly an auxiliary of the U.S. military. Since the 1990-1991 Persian Gulf war, and the Somali and Bosnian peacemaking operations that followed, the Pentagon has made increasing demands for improved national intelligence “support to military operations.” Larger numbers of military personnel have been seconded to the CIA, and military culture increasingly pervades the Agency. **The support has become the operation.** Director Panetta’s predecessor was an Air Force general. His successor is an Army general. Support for military operations has involved a learning curve, but increasingly the intelligence agencies are cast as adjuncts to the military.

The high “operational tempo” demanded by Director Michael Hayden, Panetta’s predecessor, in fact required the CIA to work more like the military, discarding careful intelligence work in favor of “actionable intelligence,” further emphasizing technical collection programs. Under Director David Petraeus, another general, it is a safe prediction that this trend will continue. Under Secretary of Defense Donald Rumsfeld, the Pentagon moved strongly to supplant CIA operations. Under the slogan “military preparation of the battlefield,” the U.S. Special Operations Command tried to recruit agents, conduct operations, and do all manner of things traditionally reserved to the clandestine service. Secretary of Defense Robert Gates cut back some of those efforts and negotiated with the CIA regarding the roles and missions of each. Needless to say **this has been made easier as the agency became more militarized.**

In Presidents’ Secret Wars, written amid the excesses of Reagan-era covert operations, I argued for vesting authority for the covert operations function within the Department of Defense (DoD). That was partly a matter of the DoD providing more of the full-service covert operations panoply within its Special Operations Forces – a point illustrated by the bin Laden attack – and partly a reflection of the sense that military regulations should ensure more proper legal controls. In Safe for Democracy, written in 2006, I was not so confident, and argued for preserving the main lines of covert operations authority within the CIA. But the CIA was guilty of excesses in the struggle against terrorism and has become excessively militarized, while the military remains as clumsy as ever. Today I am not comfortable with either solution. The presumptive authority for covert operations remains where it has been, with the CIA, but the Agency has become militarized, has **lost skills**, and still lacks a proper mechanism for cost-benefit analysis. **Covert capability needs to rebuild tradecraft, refine its decision devices, and be placed within a proper legal framework.** This brings us to the final, legal questions. I have consistently held, and still do, that no legal authority for covert operations exists under the U.S. Constitution. The underpinning for presidential approval of covert operations rests entirely on the ambiguous “such other functions” clause of the National Security Act of 1947. The CIA’s own General Counsel concluded on multiple occasions that covert operations did not fall within the scope of that language.

Should the President instead rely upon his authority as Commander in Chief of the armed forces, the problem is that the CIA is not an “armed force.” Even if it were, the President would then have to be deemed to be acting under the provisions of the War Powers Resolution of 1973. This requires congressional approval of an action within sixty to ninety days. We can debate whether Congress has abdicated its responsibilities for enforcement of this statute, but the fact remains that it is the law of the land.

Alternatively, were the CIA to be construed as an unofficial armed force for the purpose of conducting paramilitary action – which is, after all, an act of force – then the Constitution (Article I, Section 8) expressly reserves to the Congress all authority to issue “Letters of Marque.” The eighteenth century equivalent of grants of unofficial combatant status, given to privateers, Letters of Marque authorize the use of force by private individuals (read CIA operatives).

The system of “presidential findings” (“Memoranda of Notification”) that exists today was cobbled together through the 1970s and 1980s by a Congress anxious to assert some sort of oversight and an Executive eager to avoid it. These presidential findings are functional equivalents of Letters of Marque. Since statutory law does not and cannot supersede the Constitution, the current system still fails to meet constitutional requirements.

Congress and the Executive spent more than a decade from the 1980s into the 1990s fighting each other to regularize the format and content of presidential findings, which became a staple of congressional oversight debates. The wounds had barely healed when, after 9/11, the Bush administration further exploited the presidential finding system regarding non-covert operations matters (National Security Agency telephone monitoring) as covered by the system, by manipulating questions of what legislators (“Big Eight,” “Big Four,” the intelligence oversight committees, no one?) had to be informed on particular issues, and by continuing to dispute the issue left outstanding in the 1990s – what constituted “current” notification.

The proper constitutional solution under Article I, Section 8, is to craft a mechanism for congressional approval of presidential findings. That would locate responsibility squarely and settle the matter of definitions. Congress would be entitled to whatever information is required to reach its decisions, and its affirmative action would give covert operations a degree of **political cover** they presently lack.

**The legitimate vehicle for the expression of this formula is a CIA charter**, or more precisely a charter covering the intelligence community as a whole. **Charter legislation is the place to reframe all the questions of regulation and responsibility for various aspects of intelligence agency roles and missions that have been raised here and in other recent assessments of covert operations**. Congress and the Executive failed to reach agreement on intelligence charter legislation during the Carter administration. It is long overdue, and its necessity has only been confirmed by recent excesses.

No hope of spillover or long-term solvency – the DOD doesn’t want the CIA’s paramilitary functions

Tyson, writer for the Washington Post, 2/5/2005 (Ann Scott, <http://www.washingtonpost.com/wp-dyn/articles/A168-2005Feb4.html>)

A preliminary study contracted by the Pentagon has concluded that the Defense Department should not take charge of the CIA's paramilitary functions, senior defense officials said yesterday.

The study was conducted in response to a request from President Bush that the Pentagon, the CIA and other agencies consider how to act on a recommendation by the Sept. 11 commission that lead responsibility for covert and clandestine paramilitary operations be shifted from the CIA to the Defense Department. The commission's report said the CIA lacked a robust paramilitary operation and relied too heavily on proxies. The United States could not afford to build two paramillitary arms, it said, and suggested they be consolidated under the military's Tampa-based Special Operations Command.

"Our study does not intend to take over any mission from the CIA," Thomas W. O'Connell, assistant secretary of defense for special operations and low-intensity conflict, said at a conference here yesterday. The Pentagon and the CIA are drafting formal proposals to submit to the White House later this month. The study's conclusion, however, reflects an emerging consensus among current and former defense, military and intelligence officials that it is more logical for the CIA to retain its relatively modest paramilitary force.

"If you take the very small paramilitary capabilities away from the CIA, in my view, it would limit their ability to conduct foreign intelligence activities which they are required by law to do," said one senior defense official familiar with the study. Moreover, "we don't have the legal authorities to be doing what the CIA does, so getting all those assets doesn't make any sense," he said, speaking on the condition of anonymity because the issue is still unsettled.

A former senior Department of Defense official involved in the early stages of the study summed up opinions this way: "Nobody in DOD wanted to take it over, and no one in CIA wanted to give it up."

The Sept. 11 commission's recommendation prompted speculation that the Pentagon was seeking to usurp the CIA's role in covert military operations, a charge defense officials reject. "There have been repeated articles suggesting that this is a Pentagon power grab. That's not the case," one defense official said.

CIA spends twice as much on human intelligence as on covert ops

Morrissey, online conservative columnist, citing the Washington Post, 2013

<http://hotair.com/archives/2013/08/29/wapo-secret-intel-budget-reveals-goals-successes-and-failures/>

Of the $14.7 billion, $2.5 billion gets spent on covert action, which covers drone operations in the Middle East and sabotage against the Iranian nuclear-weapons program, among other efforts. More than twice that ($6.2 billion) gets spent on human intelligence (HUMINT), which accounts for nearly half of all CIA spending. A little over a billion more gets spent on analysis and analysis enabling, with the rest going to infrastructure and management. If the overall price tag is higher than expected, the prioritization of the spending seems rather unsurprising.

No impact to Johnson – Human intelligence is vague and the CIA isn’t key, their author

Johnson 10 – (2010, Loch, PhD, Regents Professor of Political Science at the University of Georgia, “Evaluating ‘Humint’: The Role of Foreign Agents in U.S. Security,” Comparative Strategy Volume 29, Issue 4, 2010, taylor and francis)

**[Harvard’s card ends]**

Humint 101

The Purpose

Human intelligence involves the collection of information the old fashioned way: relying

on well-placed agents within the enemy’s camp. Sometimes the phrase “humint” refers

narrowly to the use of agents by intelligence professionals for the clandestine acquisition

of documents or other secrets; more recently, its usage has expanded to incorporate all

information collection by human beings, whether gathered overtly or covertly, and whether

the instruments of collection are individuals in the diplomatic corps, the military, the intelligence

agencies, or nongovernmental personnel under temporary contract to the government

(“outsourced” human intelligence).

The Agencies and Personnel

During the Cold War, officers of the Operations Directorate in the Central Intelligence

Agency (CIA)—one of America’s sixteen major intelligence agencies—were primarily

responsible for gathering humint information on behalf of U.S. policymakers. Most of

these intelligence officers served overseas within American embassies, relying on official

diplomatic cover. (Cover refers to the ostensible reason, the excuse, for the presence of an

intelligence officer abroad, since wearing “C.I.A.” on one’s hatband could be decidedly dangerous,

even fatal, in some parts of theworld.) In addition to this “official cover” (OC) inside

an embassy, some intelligence professionals are deployed under “non-official cover” (NOC)

outside the embassy, perhaps as an investment banker in Cairo, a Ph.D. candidate on an

Data disproves hegemony impacts

Fettweis, 11

Christopher J. Fettweis, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence.

The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated.

Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered.

However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation.

It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

No challengers

Kaplan, senior fellow – Center for a New American Security, and Kaplan, frmr. vice chairman – National Intelligence Council, ‘11

(Robert D and Stephen S, “America Primed,” *The National Interest*, March/April)

But in spite of the seemingly inevitable and rapid diminution of U.S. eminence, to write America’s great-power obituary is beyond premature. The United States remains a highly capable power. Iraq and Afghanistan, as horrendous as they have proved to be—in a broad historical sense—are still relatively minor events that America can easily overcome. The eventual demise of empires like those of Ming China and late-medieval Venice was brought about by far more pivotal blunders.

Think of the Indian Mutiny against the British in 1857 and 1858. Iraq in particular—ever so frequently touted as our turning point on the road to destruction—looks to some extent eerily similar. At the time, orientalists and other pragmatists in the British power structure (who wanted to leave traditional India as it was) lost some sway to evangelical and utilitarian reformers (who wanted to modernize and Christianize India—to make it more like England). But the attempt to bring the fruits of Western civilization to the Asian subcontinent was met with a violent revolt against imperial authority. Delhi, Lucknow and other Indian cities were besieged and captured before being retaken by colonial forces. Yet, the debacle did not signal the end of the British Empire at all, which continued on and even expanded for another century. Instead, it signaled the transition from more of an ad hoc imperium fired by a proselytizing lust to impose its values on others to a calmer and more pragmatic empire built on international trade and technology.1 There is no reason to believe that the fate of America need follow a more doomed course.

Yes, the mistakes made in Iraq and Afghanistan have been the United States’ own, but, though destructive, they are not fatal. If we withdraw sooner rather than later, the cost to American power can be stemmed. Leaving a stable Afghanistan behind of course requires a helpful Pakistan, but with more pressure Washington might increase Islamabad’s cooperation in relatively short order.

In terms of acute threats, Iran is the only state that has exported terrorism and insurgency toward a strategic purpose, yet the country is economically fragile and politically unstable, with behind-the-scenes infighting that would make Washington partisans blanch. Even assuming Iran acquires a few nuclear devices—of uncertain quality with uncertain delivery systems—the long-term outlook for the clerical regime is itself unclear. The administration must only avoid a war with the Islamic Republic.

To be sure, America may be in decline in relative terms compared to some other powers, as well as to many countries of the former third world, but in absolute terms, particularly military ones, the United States can easily be the first among equals for decades hence.

China, India and Russia are the only major Eurasian states prepared to wield military power of consequence on their peripheries. And each, in turn, faces its own obstacles on the road to some degree of dominance.

The Chinese will have a great navy (assuming their economy does not implode) and that will enforce a certain level of bipolarity in the world system. But Beijing will lack the alliance network Washington has, even as China and Russia will always be—because of geography—inherently distrustful of one another. China has much influence, but no credible military allies beyond possibly North Korea, and its authoritarian regime lives in fear of internal disruption if its economic growth rate falters. Furthermore, Chinese naval planners look out from their coastline and see South Korea and a string of islands—Japan, Taiwan and Australia—that are American allies, as are, to a lesser degree, the Philippines, Vietnam and Thailand. To balance a rising China, Washington must only preserve its naval and air assets at their current levels.

India, which has its own internal insurgency, is bedeviled by semifailed states on its borders that critically sap energy and attention from its security establishment, and especially from its land forces; in any case, India has become a de facto ally of the United States whose very rise, in and of itself, helps to balance China.

Russia will be occupied for years regaining influence in its post-Soviet near abroad, particularly in Ukraine, whose feisty independence constitutes a fundamental challenge to the very idea of the Russian state. China checks Russia in Central Asia, as do Turkey, Iran and the West in the Caucasus. This is to say nothing of Russia’s diminishing population and overwhelming reliance on energy exports. Given the problems of these other states, America remains fortunate indeed.

The United States is poised to tread the path of postmutiny Britain. America might not be an empire in the formal sense, but its obligations and constellation of military bases worldwide put it in an imperial-like situation, particularly because its air and naval deployments will continue in a post-Iraq and post-Afghanistan world. No country is in such an enviable position to keep the relative peace in Eurasia as is the United States—especially if it can recover the level of enduring competence in national-security policy last seen during the administration of George H. W. Bush. This is no small point. America has strategic advantages and can enhance its power while extricating itself from war. But this requires leadership—not great and inspiring leadership which comes along rarely even in the healthiest of societies—but plodding competence, occasionally steely nerved and always free of illusion.

Heg doesn’t solve war

Mastanduno, 9 – Professor of Government at Dartmouth

(Michael, World Politics 61, No. 1, Ebsco)

During the cold war the United States dictated the terms of adjustment. It derived the necessary leverage because it provided for the security of its economic partners and because there were no viable alter natives to an economic order centered on the United States. After the cold war the outcome of adjustment struggles is less certain because the United States is no longer in a position to dictate the terms. The United States, notwithstanding its preponderant power, no longer enjoys the same type of security leverage it once possessed, and the very success of the U.S.-centered world economy has afforded America’s supporters a greater range of international and domestic economic options. The claim that the United States is unipolar is a statement about its cumulative economic, military, and other capabilities.1 But preponderant capabilities across the board do not guarantee effective influence in any given arena. U.S. dominance in the international security arena no longer translates into effective leverage in the international economic arena. And although the United States remains a dominant international economic player in absolute terms, after the cold war it has found itself more vulnerable and constrained than it was during the golden economic era after World War II. It faces rising economic challengers with their own agendas and with greater discretion in international economic policy than America’s cold war allies had enjoyed. The United States may continue to act its own way, but it can no longer count on getting its own way.

Military covert ops are already subject to CIA restrictions - proves plan gets circumvented

Lawfare 13

Lawfare, 2013, "Distinguishing CIA-Led from Military-Led Targeted Killings", http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/

Military-led targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led targeted killings may fall into one of the CAS exceptions—for instance, that for traditional military activities—so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from the CAS’s presidential finding and authorization requirements, as well as its congressional reporting rules.

Because such unacknowledged military operations are, in many respects, indistinguishable from traditional covert actions conducted by the CIA, this exception may provide a “loophole” allowing the President to circumvent existing oversight mechanisms without substantively changing his operational decisions. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.

## terror

Drones are sustainable—US government won’t react to backlash

Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution. He is the author of several books and a member of the Hoover Institution's Task Force on National Security and Law, 2/27/13, In Defense of the Administration on Targeted Killing of Americans, www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

This view has currency among European allies, among advocacy groups, and in the legal academy. **Unfortunately for its proponents, it has no currency among the three branches of government** of the United States. The courts and the executive branch have both taken the opposite view, and the Congress passed a broad authorization for the use of force and despite many opportunities, has never revisited that document to impose limitations by geography or to preclude force on the basis of co-belligerency—much less to clarify that the AUMF does not, any longer, authorize the use of military force at all. Congress has been repeatedly briefed on U.S. targeting decisions, including those involving U.S. persons.[5] It was therefore surely empowered to either use the power of the purse to prohibit such action or to modify the AUMF in a way that undermined the President’s legal reasoning. Not only has it taken neither of these steps, but Congress has also funded the relevant programs. Moreover, as I noted above, Congress’s recent reaffirmation of the AUMF in the 2012 NDAA with respect to detention, once again contains no geographical limitation. There is, in other words, a consensus among the branches of government on the point that the United States is engaged in an armed conflict that involves co-belligerent forces and follows the enemy to the new territorial ground it stakes out. It is a consensus that rejects the particular view of the law advanced by numerous critics. And it is a consensus on which the executive branch is entitled to rely in formulating its legal views.

Backlash is inevitable

Groves, senior research fellow – Institute for International Studies @ Heritage, 1/25/’13

(Steven, “The U.S. Should Ignore U.N. Inquiry Into Drone Strikes,” http://blog.heritage.org/2013/01/25/the-u-s-should-ignore-u-n-inquiry-into-drone-strikes/)

Various international legal academics and human rights activists have regularly made these and other similar allegations ever since the Obama Administration stepped up the drone program in 2009. While drone strikes cannot be viewed alone as an effective counterterrorism strategy, the Administration has repeatedly defended the legality of the program. Emmerson and his fellow U.N. special rapporteurs Philip Alston and Christof Heyns have repeatedly demanded that the U.S. provide more information on drone strikes—and the U.S. has repeatedly complied, issuing public statement after public statement defending every aspect of the drone program. Public statements detailing the legality and propriety of the drone program have been made by top Administration officials, including State Department Legal Adviser Harold Koh, Attorney General Eric Holder, Deputy National Security Advisor John Brennan, General Counsel for the Department of Defense Jeh Johnson, and CIA General Counsel Stephen Preston. Increased transparency will, of course, be deemed by human rights activists as insufficient where their true goal is to stop the U.S. drone program in its entirety. Unless and until the U.S. can somehow promise that no civilian casualties will result from drone strikes, such strikes will be considered violations of international law. Ignoring the U.N. probe will not make it go away, but the Obama Administration should not be so naive as to expect that its cooperation will substantively alter the investigation’s findings and conclusions.

The public prefers the squo—regulation increases likelihood of backlash and turns the case

LaFranchi 6/3/13

Howard LaFranchi, Staff writer, CSMonitor, June 3, 2013, "American public has few qualms with drone strikes, poll finds", http://www.csmonitor.com/USA/Military/2013/0603/American-public-has-few-qualms-with-drone-strikes-poll-finds

When a US drone strike last week killed a top Taliban leader in Pakistan, critics of the strikes that have become a staple of President Obama’s counterterrorism policy were quick to condemn it. The killing of Waliur Rehman in the North Waziristan region on May 29 would only make reconciliation talks between the Taliban and the Afghan government – a US priority – more difficult to convene, some critics said. Others said such strikes infuriate local populations and are a recruiting tool for Al Qaeda and other Islamist extremists. But the American public appears to be unmoved by such arguments. A new Monitor/TIPP poll finds that a firm majority of Americans – 57 percent – support the current level of drone strikes targeting “Al Qaeda targets and other terrorists in foreign countries.” Another 23 percent said the use of drones for such purposes should increase. Only 11 percent said the use of drones should decrease. The poll, conducted from May 28-31, followed a major speech in which Mr. Obama suggested the use of drone strikes would decline. In the May 26 address, he also hinted at his own ambivalence about the controversial tactic, weighing the program’s efficacy against the moral questions and long-term impact. Obama acknowledged that the pluses of drone strikes – no need to put boots on the ground and the accuracy and secrecy they offer – can “lead a president and his team to view drone strikes as a cure-all for terrorism.” He balanced that against words of caution: “To say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance.” The drone strikes, which under Obama have mostly been carried out in secrecy by the CIA, are credited with killing as many as 3,000 terrorists and Islamist militants – at least four of whom were American citizens. Obama is planning to shift most drone operations to the military as part of an effort to make the program more transparent. Americans are by and large comfortable with drone strikes being ordered by the president, the CIA, or by the military, according to the Monitor poll. Less popular is the idea of creating a separate “drone court” – a panel that would presumably increase the accountability of the program. Almost two-thirds of Americans (62 percent) say they approve of drone-strike authorization coming from the president, the Pentagon, or the CIA. About a quarter (26 percent) favor setting up a drone court to sign off on strikes.

No foreign backlash

Byman 13 (Daniel, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, Foreign Affairs, “Why Drones Work: The Case for Washington’s Weapon of Choice”, July/August 2013, ZBurdette)

FOREIGN FRIENDS

It is also telling that drones have earned the backing, albeit secret, of foreign governments. In order to maintain popular support, politicians in Pakistan and Yemen routinely rail against the U.S. drone campaign. In reality, however, the governments of both countries have supported it. During the Bush and Obama administrations, Pakistan has even periodically hosted U.S. drone facilities and has been told about strikes in advance. Pervez Musharraf, president of Pakistan until 2008, was not worried about the drone program’s negative publicity: “In Pakistan, things fall out of the sky all the time,” he reportedly remarked. Yemen’s former president, Ali Abdullah Saleh, also at times allowed drone strikes in his country and even covered for them by telling the public that they were conducted by the Yemeni air force. When the United States’ involvement was leaked in 2002, however, relations between the two countries soured. Still, Saleh later let the drone program resume in Yemen, and his replacement, Abdu Rabbu Mansour Hadi, has publicly praised drones, saying that “they pinpoint the target and have zero margin of error, if you know what target you’re aiming at.” As officials in both Pakistan and Yemen realize, U.S. drone strikes help their governments by targeting common enemies. A memo released by the antisecrecy website WikiLeaks revealed that Pakistan’s army chief, Ashfaq Parvez Kayani, privately asked U.S. military leaders in 2008 for “continuous Predator coverage” over antigovernment militants, and the journalist Mark Mazzetti has reported that the United States has conducted “goodwill kills” against Pakistani militants who threatened Pakistan far more than the United States. Thus, in private, Pakistan supports the drone program. As then Prime Minister Yousaf Raza Gilani told Anne Patterson, then the U.S. ambassador to Pakistan, in 2008, “We’ll protest [against the drone program] in the National Assembly and then ignore it.” Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by **anti-drone organizations**, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as seal team raids or cruise missile strikes, would make the United States more popular.

Plan doesn’t solve --- their scenarios are about civilian casulaties and Pakistanis hating drone presence --- making the drone program transparent doesn’t fix that – that’s their Zenko ev

Doesn’t solve terrorism

Arquilla, professor of defense analysis – U.S. Naval Postgraduate School, 6/3/’13

(John, “Drones Are Too Slow to Kill Terrorists,” Foreign Policy)

Sadly, political acumen all too often makes for poor strategy -- as it surely does in this case. In the matter of drones, the problem is that the instrument itself -- an unmanned but armed aircraft -- has very serious operational and ethical constraints. During the past decade, over 400 drone attacks have taken place -- the vast majority on President Obama's watch, most of them striking on sovereign Pakistani territory. This is simply too slow a tempo, allowing enemy networks plenty of time to absorb whatever losses are inflicted and to recover from them. The problematic aerial offensive also comes at the serious cost of creating both outrage and instability in the countries where innocents are sometimes killed in drone attacks -- particularly in places targeted for "signature strikes," where those in the crosshairs simply fit a suspicious profile. The focus on "high-value targets" is closely related to the dependence on the use of drones, as the air attacks generally aim at hitting al Qaeda leaders. But this, too, is a case of going down a rabbit hole. For in a network -- a loose-jointed, very flat organizational form -- everybody is No. 3. Even the loss of No. 1, Osama bin Laden, has had little overall effect on al Qaeda, which has been able to return to Iraq, join the fight in Syria, keep up operations in Yemen and Somalia, and expand to Libya, Mali, and Nigeria -- among other places. Former Secretary of Defense Leon Panetta was fond of saying that al Qaeda was "on the verge of strategic defeat." Hardly. As the State Department's Country Reports on Terrorism, released late last week, points out, al Qaeda remains a serious threat, mostly due to its "decentralized, dispersed structure." Another pillar of President Obama's strategy, the call to address the grievances that give rise to terrorism, is a real head-scratcher, too. If all the people around the world who were subject to chronic poverty, misrule, and sheer, unrelenting injustice were to turn to terrorism, there would be more terrorists than ordinary citizens in any global census. The fact of the matter is that most who suffer do so without resort to the murder of innocents as a means of expressing their outrage. And the sources of grievances are so deeply rooted in specific cultures and their historical paths of development that to "address" them, as the president wishes, would call for nothing short of creating the kind of "new world order" that Bush the Elder envisioned and briefly thought might be possible some 20 years ago. The idea was DOA. It's still dead. Further, the notion of mending grievances, to my mind the most troubling aspect of the Obama strategy, was advanced in the speech at the National Defense University without reference at all to the possibility that American actions in the world might possibly be a real source of grievance. For example, the invasion of Iraq in 2003 remains a highly questionable use of force, and images from the conflict there have no doubt proved valuable recruiting tools for al Qaeda. And the president's rather obtuse insistence that the war in Iraq has ended can only inflame the wound and deepen the sense of grievance, given the continuing, rising level of violence plaguing that very sad land. For all the flawed thinking reflected in President Obama's speech and the strategy it described, he made one powerful point: Our fundamental goal must be to "dismantle terrorist networks." However, his insight was watered down by a seeming lack of urgency in pursuing this goal and an apparent willingness to scale down our efforts in the war on terror while relying more on allies. Truly, allies are good to have, and they should be cultivated and motivated. But not with the idea that this somehow allows the United States to do less. For it will take all the best efforts of a global counterterrorism coalition operating in high gear to disrupt and destroy the rising dark networks spawned by al Qaeda. And it should be realized that time is on the terrorists' side. The longer they stay on their feet and fighting, the closer they come to acquiring true weapons of mass destruction. Radiological, chemical, or biological attack capabilities in the hands of a dispersed network would upend any notion of world order, because a network is simply not susceptible to the kind of retaliatory punitive threats that nations are. The prospect of mutual assured destruction may keep the thousands of Russian and American nuclear warheads safely locked away forever, but an al Qaeda network with just a few nukes would enjoy enormous coercive power over the world's nations. The irony of the situation is that President Obama has identified the right goal -- focusing on enemy networks -- but he has chosen almost all **the wrong means** by which to seek their disruption. Drones are too slow-acting, strategically, and create their own "drag" in the form of outrage at collateral damage. Targeting enemy leaders is highly unlikely to defeat networks whose cells operate with high degrees of autonomy. And the effort to identify and ameliorate grievances is inherently quixotic and, in fact, undercut by the damage caused by some of our own policies (like the invasion of Iraq).

Intel failures take out drone effectiveness

Beard, professorial lecturer – UCLA Law, ‘9

(Jack M., 103 A.J.I.L. 409)

The vast quantities and new types of ISR data generated by virtual military technologies have little value to military forces if they do not reach the appropriate commanders or other decision makers in a timely manner. The use of such data remains an enormous challenge for even the most powerful, technologically sophisticated states: linear organiza-tional schemes or vertical bureaucracies like those that have predominated in the U.S. military establishment are espe-cially ill-suited to taking advantage of large amounts of new intelligence information. n33 Accordingly, as long as ad-vanced information systems associated with virtual military technologies are tied to obsolete hierarchical structures, the advantages that these systems hold out to U.S. forces probably cannot be fully realized, if at all. n34 Unlike network-centric systems (on which terrorists and other militant groups rely in what some call "netwar" n35), traditional linear structures and processes found in most military institutions are likely to result in making too little information available to the subordinate units that need it, while possibly producing an overload of data at other levels--with negative conse-quences for all operations, especially targeting. n36

Terrorists won’t use WMD

Forest 12 (James, PhD and Director of Terrorism Studies and an associate professor at the United States Military Academy, “Framework for Analyzing the Future Threat of WMD Terrorism,” Journal of Strategic Security, Volume 5, Number 4, Article 9, Winter 2012, <http://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1193&context=jss>) \*\*NOTE---CBRN weapon = chemical, biological, radiological or nuclear weapon

The terrorist group would additionally need to consider whether a WMD attack would be counterproductive by generating, for example, condemnation among the group's potential supporters. This possible erosion in support, in turn, would degrade the group's political legitimacy among its constituencies, who are viewed as critical to the group's long-term survival. By crossing this WMD threshold, the group could feasibly undermine its popular support, encouraging a perception of the group as deranged mass murders, rather than righteous vanguards of a movement or warriors fighting for a legitimate cause.16 The importance of perception and popular support—or at least tolerance—gives a group reason to think twice before crossing the threshold of catastrophic terrorism. A negative perception can impact a broad range of critical necessities, including finances, safe haven, transportation logistics, and recruitment. Many terrorist groups throughout history have had to learn this lesson the hard way; the terrorist groups we worry about most today have learned from the failures and mistakes of the past, and take these into consideration in their strategic deliberations. Furthermore, a WMD attack could prove counterproductive by provoking a government (or possibly multiple governments) to significantly expand their efforts to destroy the terrorist group. Following a WMD attack in a democracy, there would surely be a great deal of domestic pressure on elected leaders to respond quickly and with a massive show of force. A recognition of his reality is surely a constraining factor on Hezbollah deliberations about attacking Israel, or the Chechen's deliberations about attacking Russia, with such a weapon.

No Pakistan collapse and it doesn't escalate

Dasgupta 13

Sunil Dasgupta is Director of the University of Maryland Baltimore County Political Science Program at the Universities at Shady Grove and non-resident Senior Fellow at the Brookings Institution, East Asia Forum, February 25, 2013, "How will India respond to civil war in Pakistan?", http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/

As it is, India and Pakistan have gone down to the nuclear edge four times — in 1986, 1990, 1999 and 2001–02. In each case, India responded in a manner that did not escalate the conflict. Any incursion into Pakistan was extremely limited. An Indian intervention in a civil war in Pakistan would be subject to the same limitations — at least so long as the Pakistani army maintains its integrity.

Given the new US–India ties, the most important factor in determining the possibility and nature of Indian intervention in a possible Pakistani civil war is Washington. If the United States is able to get Kabul and Islamabad to work together against the Taliban, as it is trying to do now, then India is likely to continue its current policy or try to preserve some influence in Afghanistan, especially working with elements of the Northern Alliance.

India and Afghanistan already have a strategic partnership agreement in place that creates the framework for their bilateral relationship to grow, but the degree of actual cooperation will depend on how Pakistan and the Taliban react. If Indian interests in Afghanistan come under attack, New Delhi might have to pull back. The Indian government has been quite clear about not sending troops to Afghanistan.

If the United States shifts its policy to where it has to choose Kabul over Islamabad, in effect reviving the demand for an independent Pashtunistan, India is likely to be much more supportive of US and Afghan goals. The policy shift, however, carries the risk of a full-fledged proxy war with Pakistan in Afghanistan, but should not involve the prospect of a direct Indian intervention in Pakistan itself.

India is not likely to initiate an intervention that causes the Pakistani state to fail. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar Anatol Lieven argues that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.

Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

**No accidental launch**

**Williscroft 10** (Six patrols on the *John Marshall* as a Sonar Technician, and four on the *Von Steuben* as an officer – a total of twenty-two submerged months. Navigator and Ops Officer on *Ortolan* & *Pigeon* – Submarine Rescue & Saturation Diving ships. Watch and Diving Officer on *Oceanographer* and *Surveyor*. “Accidental Nuclear War” http://www.argee.net/Thrawn%20Rickle/Thrawn%20Rickle%2032.htm)

Is there a realistic chance that we could have a nuclear war by accident? Could a ballistic submarine commander launch his missiles without specific presidential authorization? Could a few men conspire and successfully bypass built-in safety systems to launch nuclear weapons? The key word here is “realistic.” In the strictest sense, yes, these things are possible. But are they realistically possible? This question can best be answered by examining two interrelated questions. Is there a way to launch a nuclear weapon by accident? Can a specific accidental series of events take place—no matter how remote—that will result in the inevitable launch or detonation of a nuclear weapon? Can one individual working by himself or several individuals working in collusion bring about the deliberate launch or detonation of a nuclear weapon? We are protected from accidental launching of nuclear weapons by mechanical safeguards, and by carefully structured and controlled mandatory procedures that are always employed when working around nuclear weapons. Launching a nuclear weapon takes the specific simultaneous action of several designated individuals. System designers ensured that conditions necessary for a launch could not happen accidentally. For example, to launch a missile from a ballistic missile submarine, two individuals must insert keys into separate slots on separate decks within a few seconds of each other. Barring this, the system cannot physically launch a missile. There are additional safeguards built into the system that control computer hardware and software, and personnel controls that we will discuss later, but—in the final analysis—without the keys inserted as described, there can be no launch—it’s not physically possible. Because the time window for key insertion is less than that required for one individual to accomplish, it is physically impossible for a missile to be launched accidentally by one individual. Any launch must be deliberate. One can postulate a scenario wherein a technician bypasses these safeguards in order to effect a launch by himself. Technically, this is possible, but such a launch would be deliberate, not accidental. We will examine measures designed to prevent this in a later column. Maintenance procedures on nuclear weapons are very tightly controlled. In effect always is the “two-man rule.” This rule prohibits any individual from accessing nuclear weapons or their launch vehicles alone. Aside from obvious qualification requirements, two individuals must be present. No matter how familiar the two technicians may be with a specific system, each step in a maintenance procedure is first read by one technician, repeated by the second, acknowledged by the first (or corrected, if necessary), performed by the second, examined by the first, checked off by the first, and acknowledged by the second. This makes maintenance slow, but absolutely assures that no errors happen. Exactly the same procedure is followed every time an access cover is removed, a screw is turned, a weapon is moved, or a controlling publication is updated. Nothing, absolutely nothing is done without following the written guides exactly, always under two-man control. This even applies to guards. Where nuclear weapons are concerned, a minimum of two guards—always fully in sight of each other—stand duty. There is no realistic scenario wherein a nuclear missile can be accidentally launched...ever...under any circumstances...period!

No loose nukes

Cohen & Zenko 12 (Michael and Micah, Fellow at the Century Foundation AND Fellow in the Center for Preventive Action at the Council on Foreign Relations, “Clear and Present Safety,” Foreign Affairs, Vol. 91, Iss. 2, EBSCO)

Pakistan represents another potential source of loose nukes. The United States' military strategy in Afghanistan, with its reliance on drone strikes and cross-border raids, has actually contributed to instability in Pakistan, worsened U.S. relations with Islamabad, and potentially increased the possibility of a weapon falling into the wrong hands. Indeed, Pakistani fears of a U.S. raid on its nuclear arsenal have reportedly led Islamabad to disperse its weapons to multiple sites, transporting them in unsecured civilian vehicles. But even in Pakistan, the chances of a terrorist organization procuring a nuclear weapon are infinitesimally small. The U.S. Department of Energy has provided assistance to improve the security of Pakistan's nuclear arsenal, and successive senior U.S. government officials have repeated what former Secretary of Defense Robert Gates said in January 2010: that the United States is "very comfortable with the security of Pakistan's nuclear weapons."

# block

## 2nc counterplan stuff

Executive commitment to transparency solves

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

The well-motivated executive might commit to transparency as a way to reduce the costs to outsiders of monitoring his actions. n94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive's decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will tend to exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility. Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political [\*904] preferences opposite to those of the president. Thus, George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking and perhaps even to classified intelligence, n95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency -no one expects meetings of the National Security Council to appear on C-SPAN -but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.

The perm is the worst of all worlds—aff or CP are individually better

Metzger ‘9

Gillian, Professor of Law, Columbia Law School, “THE INTERDEPENDENT RELATIONSHIP BETWEEN INTERNAL AND EXTERNAL SEPARATION OF POWERS,” 59 Emory L.J. 423

Equally important, the relationship between internal and external separation of powers is reciprocal: Internal and external checks reinforce and operate in conjunction with one another. Congress needs information to conduct meaningful oversight of the Executive Branch. n94 Internal agency experts and watchdogs are important sources of that information, whether in the guise of [\*445] formal reports, studies, and testimony or informal conversations and leaks. n95 Procedural constraints within agencies can serve a similar function, alerting Congress to agency activities. n96 Internal mechanisms also reinforce congressional mandates by creating bodies of personnel within the Executive Branch who are committed to enforcing the governing statutory regime that sets out the parameters of their authority and regulatory responsibilities - and on whose expertise the functioning of these regulatory regimes often depends. n97 Courts equally depend on information and evidence compiled by agency personnel to review agency actions, and they have invoked this dependence to justify the requirement that agencies disclose underlying information and offer detailed explanations of their decisions. n98 Moreover, despite courts regularly intoning that "it [is] not the function of the court to probe the mental processes of Secretaries in reaching [their] conclusions," n99 judicial review of agency actions often appears to turn on judges' perceptions of the role politics played in decisionmaking by agency officials. n100 Evidence that decisions were made over the objections of career staff and agency professionals often triggers more rigorous review. n101 A particularly striking [\*446] suggestion of how internal checks can effect judicial review came in the recent Boumediene litigation. Just a few months after refusing to grant certiorari in order to allow the Combatant Status Review Tribunal process to proceed, the Court reversed course and granted review, apparently influenced by the concerns of military lawyers about how the tribunals were functioning. n102

## at: congress solves trust

CP sends the most powerful signal (while avoiding Congressional confrontation)

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, www.foreignpolicy.com/articles/2012/12/03/obamas\_moment

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -- for better or for worse -- as the authentic voice of America. To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when he speaks and then decisively acts for America. This is true **even in the face of determined opposition**. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

Self-restraint creates a credible signal

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

Our aim in this Article is to identify this dilemma of credibility that afflicts the well-motivated executive and to propose mechanisms for ameliorating it. We focus on emergencies and national security but cast the analysis within a broader framework. Our basic claim is that **the credibility dilemma can be addressed by** executive signaling. **Without any new constitutional amendments, statutes, or legislative action**, law and executive practice already contain resources to allow a well-motivated executive to send a credible signal of his motivations, committing to use increased discretion in public-spirited ways. By tying policies to institutional mechanisms that impose heavier costs on ill-motivated actors than on well-motivated ones, the well-motivated executive can credibly signal his good intentions and thus persuade voters that his policies are those that voters would want if fully informed. We focus particularly on mechanisms of executive self-binding that send a signal of credibility by committing presidents to actions or policies that only a well-motivated president would adopt.

## at: congress sends signal of cred

#### Congress has no backbone – can’t enforce

Druck, J.D. Candidate, Cornell Law School, 12

(Judah, “DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE,” CORNELL LAW REVIEW [Vol. 98, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf, accessed 8-6-13)

Of course, despite these various suits, Congress has received¶ much of the blame for the WPR’s treatment and failures. For example, Congress has been criticized for doing little to enforce the WPR¶ in using other Article I tools, such as the “power of the purse,”76 or by closing the loopholes frequently used by presidents to avoid the WPR in the first place.77 Furthermore, in those situations where Congress¶ has decided to act, it has done so in such a disjointed manner as to render any possible check on the President useless. For example, during President Reagan’s invasion of Grenada, Congress failed to reach¶ an agreement to declare the WPR’s sixty-day clock operative,78 and¶ later faced similar “deadlock” in deciding how best to respond to President Reagan’s actions in the Persian Gulf, eventually settling for a bill¶ that reflected congressional “ambivalence.”79 Thus, between the lack of a “backbone” to check rogue presidential action and general ineptitude when it actually decides to act, Congress has demonstrated its¶ inability to remedy WPR violations.¶ Worse yet, much of Congress’s interest in the WPR is politically¶ motivated, leading to inconsistent review of presidential military decisions filled with post-hoc rationalizations. Given the political risk associated with wartime decisions,81 Congress lacks any incentive to act unless and until it can gauge public reaction—a process that oftenoccurs after the fact.82 As a result, missions deemed successful by the¶ public will rarely provoke “serious congressional concern” about presidential compliance with the WPR, while failures will draw scrutiny.83¶ For example, in the case of the Mayaguez, “liberals in the Congress¶ generally praised [President Gerald Ford’s] performance” despite theconstitutional questions surrounding the conflict, simply because the public deemed it a success.84 Thus, even if Congress was effective at¶checking potentially unconstitutional presidential action, it would only act when politically safe to do so. This result should be unsurprising: making a wartime decision provides little advantage for politicians, especially if the resulting action succeeds.85 Consequently, Congress itself has taken a role in the continued disregard for WPR¶ enforcement.¶ The current WPR framework is broken: presidents avoid it, courts¶ will not rule on it, and Congress will not enforce it. This cycle has¶ culminated in President Obama’s recent use of force in Libya, which¶ created little, if any, controversy,86 and it provides a clear pass to future presidents, judges, and congresspersons looking to continue the¶ system of passivity and deferment.

No signal or model – Congress has zero credibility abroad

Gallagher, editor of the USA Today editorial page, and the rest of the USA Today editorial board, a consensus body, 10/3/2013

(Brian, “Why shutdown needs to end now: Our view,” http://www.usatoday.com/story/opinion/2013/10/02/shutdown-obamacare-e-verify-head-start-veterans-editorials-debates/2912797/)

Stalemate damages the reputation of the United States abroad Italy has a rich cultural legacy and fantastic food but is generally considered a basket case when it comes to to good governance. It is on its 62nd government since the end of World War II. So it was not lost on America's critics that the United States and Italy were put in the same boat in recent days, thanks to similar political crises: the shutdown here, and the chaos caused in Rome when former prime minister Silvio Berlusconi pulled his center-right party out of the ruling coalition, leaving no majority to run the country. Nor is it being lost on people that Italy managed to get out of the boat first. It turned out that the tantrum thrown by Berlusconi, an erratic billionaire and convicted tax evader, was not backed by the more level-headed people in his party. So the party quickly did an about-face. Of all of the consequences of the shutdown not considered by its instigators, the worst could be the damage to America's reputation abroad. For generations, U.S. leaders have sought to portray an image of strength and probity as they pursued causes ranging from standing up to tyranny, to playing the role of honest broker, to creating democratic models that others could emulate. Now the image is one of laughingstock. President Obama had to cut short a trip to Asia next week because the shutdown left the White House short of people to do the advance work, and it might have to cancel altogether, pulling out of an important regional summit. Foreign leaders — including those in Iran, which is contemplating a major shift away from its belligerent posture — wonder aloud whether the United States can be trusted to negotiate **anything** **requiring congressional approval**. These are real costs of the shutdown, hard to quantify but impossible to overstate. When Congress proves incapable of even its most basic functions — keeping the government running and paying its bills — it undermines the American brand abroad, and with it the nation's ability to be the shining beacon to which others look.

The signal of the shutdown outweighs and undercuts the plan

Zenko, fellow @ Council on Foreign Relations, 10/1/2013

(Micah, The Federal Shutdown and Foreign Credibility, http://blogs.cfr.org/zenko/2013/10/01/the-federal-shutdown-and-foreign-credibility)

At midnight last night, the U.S. federal government began partial shutdown procedures, which are mandated whenever Congress and the President do not appropriate funds at the start of a new fiscal year, either through an appropriations bill or a continuing resolution. Subsequently, all affected federal agencies have to stop any programs funded by annual appropriations which are not deemed “essential” under the law. This means that employees of these agencies are placed on emergency furlough, a time during which they cannot come to work, bring work home, or even check their work emails. Subsequently the Department of Commerce will lose 87 percent of its workforce, Department of Energy 81 percent, Health and Human Services 52 percent, and the Department of Defense roughly half of its eight-hundred thousand civilian employees. The inability of the legislative and executive branches of government to the fulfill the few primary tasks that are presented in Sections One and Two of the U.S. Constitution should be deeply embarrassing for all responsible elected officials and political appointees. However, neither shame nor a sense of duty appear to be motivating forces in compelling Congress and the White House to compromise on funding the government. What is remarkable about the tolerance for this long approaching mini-crisis is that many of these same policymakers and officials routinely assert that U.S. credibility is the essential underpinning for American power and influence in the world. Indeed, many militarized foreign policy activities are justified on the basis of signaling resolve to U.S. allies and adversaries; whether this is bombing Syria, maintaining troops in Afghanistan beyond the end of 2014, or preventing sequestration on defense budget. Moreover, these policymakers and officials make extraordinary claims about how political leaders in Iran, North Korea, China, and elsewhere will perceive every U.S. foreign policy action—always along the spectrum of “weak” to “strong.” Why does Washington claim that demonstrating resolve in the world requires intermittently using military force, but not funding the federal government on time? For those who claimed that attacking Syria with cruise missiles was required to maintain U.S. credibility in the eyes of Iran’s Supreme Leader, doesn’t Capitol Hill’s behavior over the past week **do more to demonstrate America’s incompetence**? If the foundations of functioning governance are impossible at home, shouldn’t U.S. allies question America’s commitments to their security thousands of miles away? Finally, given that many foreign policy tasks require congressional oversight or approval, why should U.S. citizens have **any faith** in their elected officials’ ability to evaluate controversial programs, such as drone strikes, Guantanamo trials, or National Security Agency surveillance, since they cannot pass a budget? [End of article]

## Circumvention

#### Congress has no backbone – can’t enforce

Druck, J.D. Candidate, Cornell Law School, 12

(Judah, “DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE,” CORNELL LAW REVIEW [Vol. 98, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf, accessed 8-6-13)

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## 2nc read

Eliminating Title 50 authority doesn’t preclude CIA execution of future Title 10 operations

**Wall, 11** (Andru, Senior Associate with Alston & Bird LLP; former senior legal advisor for U.S. Special Operations Command Central (2007 to 2009). "Demystifying the Title 10- Title 50 Debate: Distinguishing Military Operations, Intelligence Activities and Covert Action." Harvard National Security Journal, Volume 3, 2011 from harvardnsj.org/wp-content/uploads/2012/01/Vol.-3\_Wall1.pdf)

Professor McNeal’s hypothetical evidences a misunderstanding or

mischaracterization of the law and conduct of military operations.18 Military

personnel, including Professor McNeal’s hypothetical “special operations

unit,” operate under military direction and control and under Title 10

authority. CIA personnel operating under a CIA direction and control

operate under Title 50 authorities. CIA personnel operating with military

personnel may use their Title 50 authorities to support a Title 10 operation,

but they would still be operating under Title 50 authority; likewise, a

military unit operating under Title 10 authority could support a Title 50

operation (if they are given such delegated authority).19 In other words,

when an operation is termed a “Title 10” operation, that statutory label

simply refers to the statutory origins of the mission commander’s authority;

this does not preclude other government agencies operating under separate

statutory authorities from using their personnel and resources to support the

“Title 10” operation.

**No accidental launch**

**Williscroft 10** (Six patrols on the *John Marshall* as a Sonar Technician, and four on the *Von Steuben* as an officer – a total of twenty-two submerged months. Navigator and Ops Officer on *Ortolan* & *Pigeon* – Submarine Rescue & Saturation Diving ships. Watch and Diving Officer on *Oceanographer* and *Surveyor*. “Accidental Nuclear War” http://www.argee.net/Thrawn%20Rickle/Thrawn%20Rickle%2032.htm)

Is there a realistic chance that we could have a nuclear war by accident? Could a ballistic submarine commander launch his missiles without specific presidential authorization? Could a few men conspire and successfully bypass built-in safety systems to launch nuclear weapons? The key word here is “realistic.” In the strictest sense, yes, these things are possible. But are they realistically possible? This question can best be answered by examining two interrelated questions. Is there a way to launch a nuclear weapon by accident? Can a specific accidental series of events take place—no matter how remote—that will result in the inevitable launch or detonation of a nuclear weapon? Can one individual working by himself or several individuals working in collusion bring about the deliberate launch or detonation of a nuclear weapon? We are protected from accidental launching of nuclear weapons by mechanical safeguards, and by carefully structured and controlled mandatory procedures that are always employed when working around nuclear weapons. Launching a nuclear weapon takes the specific simultaneous action of several designated individuals. System designers ensured that conditions necessary for a launch could not happen accidentally. For example, to launch a missile from a ballistic missile submarine, two individuals must insert keys into separate slots on separate decks within a few seconds of each other. Barring this, the system cannot physically launch a missile. There are additional safeguards built into the system that control computer hardware and software, and personnel controls that we will discuss later, but—in the final analysis—without the keys inserted as described, there can be no launch—it’s not physically possible. Because the time window for key insertion is less than that required for one individual to accomplish, it is physically impossible for a missile to be launched accidentally by one individual. Any launch must be deliberate. One can postulate a scenario wherein a technician bypasses these safeguards in order to effect a launch by himself. Technically, this is possible, but such a launch would be deliberate, not accidental. We will examine measures designed to prevent this in a later column. Maintenance procedures on nuclear weapons are very tightly controlled. In effect always is the “two-man rule.” This rule prohibits any individual from accessing nuclear weapons or their launch vehicles alone. Aside from obvious qualification requirements, two individuals must be present. No matter how familiar the two technicians may be with a specific system, each step in a maintenance procedure is first read by one technician, repeated by the second, acknowledged by the first (or corrected, if necessary), performed by the second, examined by the first, checked off by the first, and acknowledged by the second. This makes maintenance slow, but absolutely assures that no errors happen. Exactly the same procedure is followed every time an access cover is removed, a screw is turned, a weapon is moved, or a controlling publication is updated. Nothing, absolutely nothing is done without following the written guides exactly, always under two-man control. This even applies to guards. Where nuclear weapons are concerned, a minimum of two guards—always fully in sight of each other—stand duty. There is no realistic scenario wherein a nuclear missile can be accidentally launched...ever...under any circumstances...period!

## 2nc --- overview

#### First strike pressures

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

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

What to do about Iran’s nuclear program is one of the most vexing foreign policy challenges confronting the Obama administration. This debate is increasingly characterized both by growing pessimism about whether the international community’s diplomatic efforts and economic sanctions can prevent Iran from acquiring nuclear weapons and by guarded optimism that the consequences a nuclear-armed Iran are manageable. Writing in these pages last spring, James Lindsay and Ray Takeyh, both of the Council on Foreign Relations, maintained that the United States could contain Iran even if it developed a nuclear arsenal by establishing clear “redlines” that Tehran would not be allowed to cross without risking some type of retaliation. For example, if Iran used its nuclear weapons, transferred them to a third party, invaded its neighbors, or increased its support for terrorist groups such as Hamas and Hezbollah, the United States would be compelled to respond, although the measures it chose to adopt would not be specified in advance. This argument reflects the public position of many senior U.S. and European offcials, as well as a number of prominent academics and defense intellectuals. Yet this view is far too sanguine. Above all, it rests on the questionable assumptions that possessing nuclear weapons induces caution and restraint, that other nations in the Middle East would balance against Iran rather than bandwagon with it, that a nuclear-armed Iran would respect new redlines even though a conventionally armed Iran has failed to comply with similar warnings, and that further proliferation in the region could be avoided. It seems more likely that Iran would become increasingly aggressive once it acquired a nuclear capability, that the United States’ allies in the Middle East would feel greatly threatened and so would increasingly accommodate Tehran, that the United States’ ability to promote and defend its interests in the region would be diminished, and that further nuclear proliferation, with all the dangers that entails, would occur. The greatest concern in the near term would be that an unstable Iranian-Israeli nuclear contest could emerge, with a significant risk that either side would launch a first strike on the other despite the enormous risks and costs involved. Over the longer term, Saudi Arabia and other states in the Middle East might pursue their own nuclear capabilities, raising the possibility of a highly unstable regional nuclear arms race.

**Turns case – sets a precedent to delegate authority – draws us into war**

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

The American people should know that pending right now in Congress is a bipartisan bill that would virtually commit the United States to go to war against Iran if Israel attacks the Islamic Republic. “The bill outsources any decision about resort to military action to the government of Israel,” Columbia University Iran expert Gary Sick wrote to Sen. Chuck Schumer (D-NY) in protest, one of the bill’s principal sponsors.

The mind boggles at the thought that Congress would let a foreign government decide when America goes to war, so here is the language (PDF):

If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military and economic support to the Government of Israel in its defense of its territory, people and existence.

This section is legally nonbinding, but given the clout of the bill’s chief supporter outside of Congress — the American-Israel Public Affairs Committee (AIPAC [PDF]), leader of the pro-Israel lobby — that is a mere formality.

Since AIPAC wants this bill passed, it follows that so does the government of Israeli Prime Minister Benjamin Netanyahu, who opposes American negotiations with Iran and has repeatedly threatened to attack the Islamic Republic. Against all evidence, Netanyahu insists the purpose of Iran’s nuclear program is to build a weapon with which to attack Israel. Iran says its facilities, which are routinely inspected, are for peaceful civilian purposes: the generation of electricity and the production of medical isotopes.

The bill, whose other principal sponsors are Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL), has a total of 26 Senate cosponsors. If it passes when the Senate reconvenes in January, it could provoke a historic conflict between Congress and President Obama, whose administration is engaged in negotiations with Iran at this time. Aside from declaring that the U.S. government should assist Israel if it attacks Iran, the bill would also impose new economic sanctions on the Iranian people. Obama has asked the Senate not to impose additional sanctions while his administration and five other governments are negotiating with Iran on a permanent settlement of the nuclear issue.

A six-month interim agreement is now in force, one provision of which prohibits new sanctions on Iran. “The [Menendez-Schumer-Kirk] bill allows Obama to waive the new sanctions during the current talks by certifying every 30 days that Iran is complying with the Geneva deal and negotiating in good faith on a final agreement,” Ali Gharib writes at Foreign Policy magazine. That would effectively give Congress the power to undermine negotiations. As Iran’s foreign minister, Javad Zarif, told Time magazine, if Congress imposes new sanctions, even if they are delayed for six months, “The entire deal is dead. We do not like to negotiate under duress.”

Clearly, the bill is designed to destroy the talks with Iran, which is bending over backward to demonstrate that its nuclear program has no military aims.

**Deal failure itself causes global war**

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

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.

“If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday.

“The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said.

“So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned.

The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war.

## At: no deal

#### Deal is likely—preventing Congressional scuttling key

Colin Kahl, Former DASD for Middle East, Associate Professor, Edmund A. Walsh School of Foreign Service, Georgetown University Senior Fellow and Director, Middle East Security Program, Center for a New American Security, 11/13/13, Testimony before the House Committee on Foreign Affairs, http://docs.house.gov/meetings/FA/FA00/20131113/101478/HHRG-113-FA00-Wstate-KahlC-20131113.pdf

The long-simmering nuclear crisis with Iran is approaching a critical inflection point. The election of Hassan Rouhani, a moderate former nuclear negotiator, as Iran’s new president has re-energized diplomacy between Iran and the P5+1 (the United States, Britain, China, France, Germany, and Russia). Sanctions have taken a heavy toll on the Iranian economy, and Rouhani believes he has a popular mandate and sufficient latitude from Iran’s supreme leader, Ayatollah Ali Khamenei, to reach an accommodation with the international community in exchange for lessening the pressure. **The prospects for a comprehensive agreement to peacefully resolve the nuclear impasse have never been higher**.

The most recent round of talks between Iran and the P5+1, held in Geneva, concluded on November 10. The negotiations were serious and sustained, including several hours of intensive bilateral discussions between the United States and Iran. Differences between the parties have been narrowed, bringing the broad contours of an interim nuclear agreement into view. Nevertheless, a number of sticking points remain.1 Talks are set to resume in Geneva on November 20.

We do not yet know whether an initial deal will materialize. But if it ultimately resembles the agreement described in recent press reports, it would be a meaningful first step on the road to a final, comprehensive accord to address the Iranian nuclear challenge.

In the coming months, the opportunity to meaningfully constrain Iranian nuclearization could be seized, leading to a peaceful resolution of a decades-long conflict, or squandered, setting the stage for an Iranian nuclear bomb, another war in the Middle East, or both. As a former Deputy Assistant Secretary of Defense for the Middle East, I firmly believe all options should remain on the table to prevent Iran from acquiring nuclear weapons. But I also know enough about how military conflict with Iran would likely unfold to understand that an enduring diplomatic outcome is far preferable to another war.

Achieving a peaceful solution that prevents Iran from acquiring nuclear weapons will require continued commitment to serious, tough-minded negotiations, and close cooperation between the Obama administration and Congress. Given the profound distrust between the United States and Iran, **care must be taken to maintain diplomatic momentum and avoid missteps and backsliding that could otherwise put the parties on the road to confrontation**. In particular, as U.S. negotiators work to get an initial agreement by the end of 2013 to halt the most troubling and urgent dimensions of Iran’s nuclear enterprise, **Congress should refrain from imposing additional sanctions or taking other actions that would tie the hands of our diplomats and undermine the prospects for success**

#### Allies are posturing—deal likely

Michael Hirsch, National Journal, 11/11, Every Nation Is Just Posturing on Iran, www.nationaljournal.com/defense/every-nation-is-just-posturing-on-iran-20131111

Benjamin Netanyahu **is posturing on Iran.** The Israeli prime minister is fulminating over a prospective nuclear deal and appears to be threatening to scuttle the already-stumbling talks with the Palestinians if Secretary of State John Kerry agrees to ease sanctions on Iran. Ever since he first met then-candidate Barack Obama in mid-2008, Netanyahu has lumped the Iran and Palestinian issues together and insisted they be solved sequentially—Iran first, then peace and statehood. "If Iran became nuclear it would mean the victory of the militants in Hamas and Hezbollah and undercut the moderates," Uzi Arad, Netanyahu's then-national security advisor, explained to me then. So Netanyahu now has an excuse to put off the issue of Palestinian statehood yet again, even though doing so might be shooting himself in the foot, demographically speaking. (A one-state solution, however satisfying to hawks, still turns Israel into a Middle East version of an apartheid state.) And whatever threats Netanyahu might make about Israeli military action against Iran, he knows that's not going to happen in the middle of these negotiations. Nor is it likely to any time soon: the Israeli PM's martial bluster can't hide the fact that most of Israel's defense/intelligence apparatus is resisting a strike—because an attack could, in the end achieve the precise opposite of what Israel needs. It might damage Iran's nuclear facilities only partially, marginalize the moderates in Tehran, and send Iran racing at an even greater rate toward a bomb, many Israeli officials fear. The French, too, are posturing on Iran. Paris gets piqued when it's not fully consulted on major Middle East issues, especially since it has taken a muscular lead in addressing recent flashpoints from Libya to Mali. French President Francois Hollande and his foreign minister, Laurent Fabius, were unhappy about America's apparent eagerness to spearhead a deal with Tehran, following Obama's unexpected and embarrassing reversal over attacking Syria just a day after Hollande had supported U.S. action. The French led previous efforts to negotiate suspension of enrichment with Tehran going back to 2003—long before Washington joined the process—so U.S. efforts to dictate policy today in both Syria and Iran are seen as an affront to restored Gallic pride. And the French relish their newfound influence in the region; they knew they could curry favor with the Saudis and their new buddies, the Israelis, as well as anti-Iran Gulf states, by playing the hard guys. Yet Kerry, in remarks made in Abu Dhabi on Monday, said the differences between the American and French **positions were exaggerated**, and **a French official agreed** that for the most part the two countries were still presenting a "**united front."** "[We were] unified on Saturday when we presented a proposal to the Iranians," Kerry said, "and the French signed off on it, we signed off on it, and everybody agreed it was a fair proposal. There was unity, but Iran couldn't take it at that particular on moment, they weren't able to accept that particular thing.'' The Iranians are posturing, too. No matter how badly the sanctions are biting, New President Hassan Rouhani and Foreign Minister Mohammad Javad Zarif are on a very short leash when it comes to concessions they can make, a point punctuated by the latest mutterings of Ayatollah Ali Khamenei and other hardline officials and Rouhani's defensive insistence on Iran's "right" to uranium enrichment. Khamenei could yank that leash summarily if Rouhani and Zarif give up too much at once, including the ongoing construction of the heavy-water Arak reactor, for a gradual easing of sanctions that does not quickly deliver a boost to Iran's tottering economy. So despite some real issues at stake, the failure to reach agreement over the weekend in Geneva was really about the fact that there were just too many political sensitivities at stake for the quick resolution of a ten-year-old conflict. The Americans need time to appease their most nervous allies in the region, especially the Israelis; the French need to satisfy their pride; and the Iranian negotiators need to assuage the Islamist militants at home who are snarling at their backs. "After ten years, we can wait another ten days," said one diplomat, referring to the scheduled resumption of talks on Nov. 20. Nonetheless, **the signs are that** all sides badly want this deal**,** which will likely entail a six-month freeze of Iran's enrichment to weapons-grade uranium in exchange for partial easing of sanctions, and that it will probably happen in the coming months, as Kerry boldly suggested. Reports Monday suggested that a new deal with U.N. inspectors could open Arak to monitoring, which might be enough to paper over the differences on that problem.

#### Khamenei will support the deal and he is key

**Kahl 12/31** (Colin, Colin H. Kahl is an associate professor in Georgetown University’s Edmund A. Walsh School of Foreign Service and a senior fellow and director of the Middle East Security Program at the Center for a New American Security. From 2009 to 2011, he was the Deputy Assistant Secretary of Defense for the Middle East, National Interest, “The Danger of New Iran Sanctions”, 2012, http://nationalinterest.org/commentary/the-danger-new-iran-sanctions-9651)

History thus suggests that external economic pressure matters, but the balance of domestic political forces in Iran matters at least as much—and it is the interaction between the two that matters most of all. The Islamic Republic's authoritarian political system is not nearly as static or monolithic as many casual observers assume. Rather, it is an arena for contestation between competing political actors and interests—and the winners of these battles can have considerable influence over the ultimate course Iran takes. To be sure, Supreme Leader Khamenei is the most powerful actor in the Iranian government, and he is the ultimate decider on the nuclear issue. But he is not omnipotent or unmovable. More often than not, Khamenei stays above the political fray, waiting to weigh in on controversial decisions until he has assessed the domestic power balance and the direction the political winds are blowing.

Iran’s domestic politics matter because competing factions place different values on the nuclear program relative to other national priorities, and they have fundamentally divergent diplomatic and economic worldviews. Iranian moderates—including both pragmatic conservatives and reformers—believe Iran’s national interests are best served by international recognition and integration. They value the country’s nuclear program, but they also worry that pursuing nuclear weapons could ultimately leave Iran less secure by worsening regional tensions and, by making Iran the target of sanctions, ruining the nation’s economy. Consequently, they may be willing to settle for a nuclear outcome in which Iran maintains some distant, latent capability to develop nuclear weapons under significant international constraints. Such a capability, in their view, would be sufficient to deter foreign adversaries if security conditions deteriorate, but would not put Iran so close to an actual bomb that it results in international isolation. For pragmatists like Rouhani, that latent status was achieved once Iran mastered uranium-enrichment technology, and they seem willing to trade away more advanced nuclear capabilities to achieve their higher-order objectives of sanctions relief and reintegration into the international community.

In contrast, Iranian hardliners—including so-called Principlists and traditional clerical conservatives—do not seek integration with the wider world. They embrace a narrative that portrays the United States, Israel and the West as unrelenting enemies hellbent on toppling the Islamic Republic and depriving Iran of the economic and scientific wherewithal to take its rightful place among the world’s great nations. They see resistance to the West as the core of Iran’s national identity. And they view economic self-reliance and the acquisition of a one-turn-of-the-screwdriver-away “threshold” nuclear capability or actual nuclear weapons as the only means of deterring Western aggression and realizing Iran’s regional ambitions. For this group, international threats and sanctions simply vindicate their worldview, encouraging them to escalate their own provocative counter-reactions.

In this clash of perspectives, Khamenei appears closer to the hardliners’ camp. But Khamenei is also concerned about the legitimacy and survival of the system as a whole, which was badly damaged by the rigged 2009 elections and the mishandling of foreign and economic policy during Ahmadinejad’s tenure. Rouhani's sweeping election victory thus mattered not only because of the new president’s own preferences, but because the election itself signaled to Khamemei that some policy shift was required in order to maintain domestic legitimacy. Anxious to shore up the system, Khamenei appears willing to give Rouhani a chance to resolve the nuclear impasse, but only so long as the president and his negotiating team do not cross the leader’s red lines, especially as it relates to defending Iran’s asserted right to enrichment.

#### The deal is good enough and that’s all that matters

Kenneth Pollack, 11/15/13, An Iran nuclear deal doesn’t have to be perfect — just better than the alternatives, www.washingtonpost.com/opinions/an-iran-nuclear-deal-doesnt-have-to-be-perfect--just-better-than-the-alternatives/2013/11/15/2b8d1292-4c85-11e3-be6b-d3d28122e6d4\_story.html

We are still a long way from a formal international agreement restraining Iran’s nuclear program, but the contours of a deal — both an interim accord and the final agreement — are slowly coming together. It won’t be perfect, but our worst mistake would be to make an impossible ideal the enemy of a tangible, “good enough” agreement. When negotiations resume this week in Geneva between the United States, Britain, France, China, Germany and Russia on one side, and Iran on the other, the two parties will concentrate first on sealing an interim deal that would freeze Iran’s nuclear progress in return for some modest relief from sanctions; if that happens, negotiators would turn to hammering out details of the final, critical agreement. That final agreement is expected to cap Iran’s uranium enrichment and halt its construction of a reactor to harvest plutonium. Moreover, it would bind Iran with far more intrusive inspections than those currently in place (or ever imposed on Iran), and it should carry the threat that sanctions could be quickly reimposed if Iran were ever caught cheating. Thus, Tehran could not manufacture even a crude nuclear weapon quickly, and it would be highly likely that the world would know about it long before such a weapon were ready. If we can get it, such a final deal should be more than adequate to remove the Iranian nuclear program as a source of fear and instability in the Middle East. Of course, it still wouldn’t be perfect. It would not eliminate Iran’s nuclear program. It would probably allow Tehran to continue some enrichment. In theory, this residual capability could become the foundation of a new Iranian drive for nuclear weapons, possibly even a secret one. That’s why the Israeli government has been denouncing the proposed deal as a sell-out to Iran and why the Persian Gulf states have been saying the same in private. For them, even a theoretical possibility is too great a risk. In international politics, however, a deal such as this one cannot be measured against some theoretical ideal; it can be assessed only relative to its real-world alternatives. There are three possible alternatives to accepting the deal currently under discussion with Iran, and unfortunately, all are worse courses. The first alternative is to hold out for a better deal, even a perfect one, in which Iran would give up every vestige of its nuclear program. Those who seem to be advocating this approach, such as Israeli Prime Minister Benjamin Netanyahu, assume that if the world rejected Iran’s current overture, we could ratchet up the pressure even more and, at some point, Iran would cave and agree to whatever we wanted. Is that possible? Sure. And if it happened, it would indeed be a better outcome. But it is highly unlikely. Iran has insisted for more than a decade that it will not give up its nuclear program completely. Even the Iranian moderates who support the current proposal demand that the world recognize the country’s right to a peaceful nuclear program. Iran has suffered under severe economic sanctions for at least seven years, and its leaders contend that they will bear them for much longer if they are not granted this minimum concession. Moreover, it is critical to recognize how the international environment would probably change if the United States and its allies rejected the deal now being debated. The current sanctions against Iran work only because they rest on an international consensus that Iran has been the recalcitrant party in the nuclear impasse. Russia, China, India, Brazil and other key nations have supported and abided by the sanctions because they have seen Iran as the country refusing to negotiate. If Washington — rather than Tehran — rejects the deal under consideration, the United States will suddenly become the problem, and that could prove disastrous. It would embolden Tehran to hold out, rather than give in. Instead of increasing the pressure on Iran, over time, we would probably see an erosion of the sanctions. Here it is worth remembering Iraq. Once international opinion turned against the Iraq sanctions in the mid-1990s, they unraveled quickly. By 2000, Saddam Hussein was smuggling billions of dollars in oil, goods and cash while countries such as France, Russia, China, Egypt and Turkey ignored U.N. Security Council resolutions — resolutions that France, Russia and China had voted for. What we found then, and as we would probably find now with Iran, is that once international opinion turns against sanctions, trying to enforce them means fighting with your allies and trade partners, rather than the targeted country. That makes sanctions virtually impossible to sustain. The second alternative would be to give up on any deal with Iran and simply continue to contain it as we have for 34 years, to prevent it from creating problems beyond its borders. That would involve keeping military forces in the gulf to prevent any Iranian military moves, maintaining sanctions to keep the regime isolated and continuing to employ covert and cyber-operations. It is a sensible policy and more feasible than most of Washington has been willing to consider. Still, there are two important caveats. The first is that it would be easier to contain a nonnuclear Iran than a nuclear one, and getting a deal now is the best way to ensure that. Second, containment would suffer significantly if international support turned against the sanctions and other measures designed to pressure Iran. And again, by turning down a deal that most of the world considers reasonable, the United States would probably shift international opinion from our side to the Iranians. The final alternative to the current proposal is to go to war with Iran — to destroy its nuclear facilities, overturn the regime or both. This, too, is a real alternative. However, it is strategically problematic and politically unpalatable, perhaps even impossible. Most of the evidence available indicates that a “limited” military operation to destroy Iran’s nuclear program would be unlikely to remain limited. Iran would probably rebuild and retaliate, and we in turn would escalate. We could easily find ourselves in a much larger and longer war than we wanted. Here, as well, the loss of international support we would suffer from turning down the deal would undermine our military effort. And given the public uproar over the Obama administration’s plans for a limited strike against Syria — a much smaller and weaker adversary — it seems hard to imagine that Americans would be ready to sign up for a costlier and riskier conflict with Iran. We don’t know if Iran will accept the deal being discussed, and we should not agree to anything just because the Iranians consider it acceptable. But if Tehran is willing to give up all but a minimal enrichment capability, if it accepts comprehensive and intrusive inspections, and if we can be confident that the sanctions would be reimposed if Iran were ever caught cheating, such an agreement would meet our strategic needs and those of our allies. It may not be perfect, but it would be better than our other options. And that is the only real test.

## pounder

#### Iran is before other fights—top of the docket

**Egelko 12/26** (Bob, San Francisco Chronicle, “Feinstein, Boxer side with Obama in Iran sanctions dispute”, December 26, 2013, http://blog.sfgate.com/nov05election/2013/12/26/feinstein-boxer-side-with-obama-in-iran-sanctions-dispute/)

A showdown is looming in the Senate next month over increased U.S. sanctions on Iran that could unravel a tentative international agreement over Iranian nuclear development, with President Obama on one side and Israel on the other. And California’s senators, Democrats Dianne Feinstein and Barbara Boxer, usually staunch allies of Israel, are both siding with Obama.

The Nov. 24 agreement requires Iran to freeze its nuclear program, halt work on a heavy-water reactor and stop enriching uranium beyond 5 percent of purity, far below the weapons-grade level. It also provides for daily inspections by international weapons monitors. In exchange, the international community agreed to suspend some of the sanctions, to the tune of $7 billion a year, that have frozen transactions with Iranian oil, banking and other industries. The six-month deal, intended as a prelude to a long-term agreement, was approved by Iran’s new president, Hassan Rouhani, and the U.S., Great Britain, Russia, China, France and Germany.

The agreement was immediately denounced by Israeli President

Benjamin Netanyahu as a sham that would allow Iran to develop nuclear weapons. Israel, which has the only nuclear arsenal in the Middle East, has threatened a pre-emptive military strike on Iran’s nuclear facilities. Meanwhile, Israel’s U.S.-based lobbyists, led by the American Israel Public Affairs Committee, are backing a sanctions bill in the Senate that has divided the Democratic Party.

The bill would impose additional economic sanctions if Iran either fails to comply with the terms of the six-month agreement or, more significantly, refuses to dismantle its entire uranium enrichment program within a year. Another provision would require the United States to provide economic and military support if Israel was “compelled to take military action in legitimate self-defense” against what the bill describes as Iran’s nuclear weapons program.

The bipartisan measure has 26 cosponsors, led by Senate Foreign Relations Committee Chairman Robert Menedez, D-N.J., and Sen. Mark Kirk, R-Ill. Another cosponsor is the Senate’s third-ranking Democrat, Chuck Schumer of New York.

“A credible threat of future sanctions will require Iran to cooperate and act in good faith at the negotiating table,” Menendez said in a statement.

But Rouhani said the legislation, if passed, would be a deal-breaker, and Obama has promised to veto it if it reaches his desk. Last week, 10 Senate Democratic committee chairs sent a letter to Majority Leader Harry Reid, D-Nev., urging him to keep the bill from coming to a vote.

The signers included Feinstein, chairwoman of the Intelligence Committee, Boxer, head of Environment and Public Works, and Sen. Tim Johnson of South Dakota, whose Banking Committee would normally hear the bill. The letter cited a recent U.S. intelligence assessment that concluded new sanctions “would undermine the prospects for a successful comprehensive nuclear agreement with Iran.”

Reid kept the bill off the pre-holiday calendar, but Menendez and Kirk plan to bring it up once Congress reconvenes Jan. 6. With Republicans solidly in support and congressional elections looming, the measure — in addition to its international consequences — could pose political problems for the Democrats.

#### Domestic-issue fights are isolated from Iran

Judy Woodruff, PBS, 1/2/13, Examining Obama's options to push his agenda in 2014, www.pbs.org/newshour/bb/white\_house/jan-june14/yearahead\_01-02.html

But the Republicans are divided. You know, there is a civil war going on in the Republican Party between those Tea Party conservatives who have really had the upper hand since 2010 and more establishment Republicans, more mainstream Republicans, including some of the business interests, some of the big donors, who want to steer a different path.

And that may make - that may create opportunities for President Obama to make deals with that part of the party. But it also may create problems in trying to deal with a divided enemy.

JUDY WOODRUFF: And with that backdrop, Jerry, we have been talking about domestic issues. Are there also international issues? They may not be working their way through the Congress, but **the president is going to be dealing** on the side with what's - **with** Iran, **a** potential **nuclear deal with Iran**, with the Middle East, perhaps, John Kerry, the secretary of state.

How much do international issues come into play at a time like this?

GERALD SEIB: You know, in every second term, international issues increasingly take over the agenda for the president. As his power at home is restricted, his ability or his desire to move abroad increases.

And that will probably be the story of the next three years. I think in the next year, **the big question on that agenda is the nuclear deal with Iran**. Will it come to - you know, there is a temporary deal in place. That will expire in a few months. Will there be a permanent deal in place to restrict the Iranian nuclear program? Will it go down well in Congress, where there is a lot of skepticism about it? Will it go down well with the allies? Will it go down well with the Israelis?

I think that is the big international question, and it is a tough one for the president in the first few months.

#### Obama has agenda momentum now

Julie Pace, AP, 1/6/13, Obama eyes modest momentum on Capitol Hill in 2014, www.denverpost.com/breakingnews/ci\_24852618/obama-eyes-modest-momentum-capitol-hill-2014

President Barack Obama gets back to work this week eager to test whether a modest budget deal passed in the waning days of 2013 can spark bipartisan momentum on Capitol Hill. As he opens his sixth year in office, he also faces legacy-defining decisions on the future of government surveillance programs and the American-led war in Afghanistan. Looming over it all will be the November congressional elections, Obama's last chance to stock Capitol Hill with more Democratic lawmakers who could help him expand his presidential playing field. For Republicans, those contests are an opportunity to seize control of the Senate, which would render Obama a lame duck for his final two years in the White House. The wild card in 2014, for the White House and congressional Democrats facing re-election, will be the fate of the president's health care law. The website woes that tainted its launch have largely been resolved and enrollment has picked up. But the White House has been tight-lipped about who has enrolled, raising uncertainty about whether the insurance exchanges are on track to get the percentage of young and healthy people who are critical to keeping prices down. The health care questions aside, Obama spokesman Josh Earnest said **the White House enters the new year buoyed by** the "modest amount of **legislative momentum" generated by the December budget deal.** "We're hopeful Congress can build on it and make progress on other priorities where common ground exists," Earnest said.

#### Obama can unlock his agenda, but the plan mucks up his second-term reset

Chuck Todd, NBC, 1/6/13, First Thoughts: Obama's big (and important) January, firstread.nbcnews.com/\_news/2014/01/06/22201032-first-thoughts-obamas-big-and-important-january

\*\*\* Obama’s big (and important) January: After a polarized, gridlocked and unproductive year when everybody’s poll numbers took a nosedive - President Obama’s, the Republican Party’s, the Democratic Party’s - official Washington returns to work. The president is back at the White House after his two-week vacation to Hawaii; the Senate convenes at 2:00 pm ET; and the House returns tomorrow. **The question is whether 2014 will be a fresh start, or whether it will be more of the same**. And **this is especially true for Obama**. Make no mistake: This is a big month for the president. There’s the State of the Union on Jan. 28, the push for jobless benefits (more on that below), the NSA reforms he’ll announce next week, and the continued implementation of the health-care law. Indeed, **this month could very well be one of his last where** he has this much control in setting the agenda. Another way to look at it: **January presents him with an opportunity to** hit the reset button **on his second term.** Either January is the start of his political comeback, or it is a missed opportunity - and perhaps one of his last.

## at: obamacare

#### Their ev is from an editorial author with no quals and talks about generic GOP strategy not the actual political climate --- The Obamacare controversy is behind him—has capital and will win

Dean Obeidallah, Daily Beast, 1/3/13, 6 Reasons This Could Be Obama’s Best Year as President, www.thedailybeast.com/articles/2014/01/03/6-reasons-this-could-be-obama-s-best-year-as-president.html

“Obama is done! He’s a lame duck. It’s over for the president.” These are the type of the comments we saw in the media as 2013 came to a close. As some political pundits saw it, Obama can forget seeing any of his proposals enacted and should simply enjoy the perks of being president -like free cable and limo rides. Could they be right? Sure, it’s possible. Obama’s approval ratings are near his lowest as president and his disapproval rating is at 54 percent, his worst ever. With that said, **2014 could be a great year for the president**—in fact, **it could be his best ever**. I know some of you are thinking: I must be crazy. Well, a lot of people who have been called crazy later went on to be recognized as geniuses. Of course, some who were labeled as “crazy” actually turned out to have mental disorders. In either event, here are the six reasons that 2014 could be Obama’s finest. 1. The US economy is improving: A good economy generally equals higher approval ratings for president **and in turn** more political capital **for him to push for his proposals**. Even President Clinton had an approval rating of 73% in the midst of his impeachment. Why? One big reason was the US economy was strong with unemployment at 4.5% and falling. Currently, the US economy appears poised for growth. The unemployment rate is at its lowest point during the Obama administration at 7%. This is in sharp contrast to the 10% unemployment rate we saw at one time in Obama’s first term. In addition, the stock market just had its best year since 1997, the GDP for the third quarter of 2013 grew at a surprisingly strong 3.6% annual rate and the IMF recently raised its 2014 growth projection for the US economy. 2. Obamacare will get better: It has to-It can’t get worse. And Obamacare was the number 1 reason cited in a recent NBC News/WSJ poll for why people gave the president only a 43% approval rating. But here’s the thing: The Obamacare website issues are now behind us and over 2 million people and counting have signed up for the program. That means Obamacare will soon be judged on its actual merits—not on website issues nor on the constant Republican fear mongering about the law’s uncertainties. If we start hearing stories from Americans whose lives have been made better by this law, expect to see public support rise. That means Obamacare will soon be judged on its actual merits—not on website issues nor on the constant Republican fear mongering. 3. Obama has key issues on his side: President Obama recently stated that 2014 will be his “Year of action.” So expect to see him push hard on issue like immigration reform and raising the minimum wage. Both of these have broad public support. Immigration reform -including a pathway to citizenship as Obama has championed-has the support of 73% of voters. On minimum wage, a November Gallup Poll found that 76% of Americans support a raise form the current level of $7.25 an hour to $9—including 76% of independent voters. Obama is in a win-win situation on these two issues. They pass and it helps him as well as Congressional Dems. The Republicans block them and it will hurt their standing. 4. Republican Party has no ideas: Frankly, the only issue the badly splintered Republican Party seems to agree upon is to repeal Obamacare. That’s a lot to stake your entire 2014 midterm election campaign on—especially given that there’s a real possibility that Obamacare becomes more popular during the year. If the Obamacare issues fades, so, too, do the GOP’s chances of success in 2014 election since the only other issue getting them press is the infighting between its Tea Party and establishment wings. 5. **Political fortunes change fast**: Anyone remember right after the government shutdown in October headlines declaring, “Major damage to GOP after shutdown?” Polls at that time found that the public favored Democrats 50% to 42% over Republicans in generic Congressional match ups. Flash forward just two months later and pollsters now find Republicans leading Democrats 49% to 44%. Who knows where we will stand by November 2014 but all you can say for sure is that the current polls numbers are about as meaningful as the storyline on Duck Dynasty. 6. 2013 was so bad for Obama he can only go up: When we look back a year from now on the fortunes of President Obama, it will, of course, be contrasted to 2013. Lets be honest: There are some benefits to having really bad year—namely, it’s easier to make the next one appear better. So there you go: My six reasons why I think 2014 could be an amazing year for President Obama. I encourage you to save this article and if turns I’m right, I expect to be heralded as political soothsayer second only to Nate Silver. And If I’m wrong, I will of course, offer a long list of excuses.

#### The White House is controlling the Obamacare narrative

Chris Weigant, political analyst, 12/30/13, An Obamacare Checkup, www.chrisweigant.com/2013/12/30/an-obamacare-checkup/

December was pretty crucial for the website. After the interminable wait in October and November, this was pretty much the last chance for the federal insurance exchange site. But now that the numbers are starting to leak out, it looks like the website performed not just competently, but downright admirably once all the fixes were in. December was always going to be a "spike" month for the program, due to the deadlines built in to the system. This was exacerbated by the pent-up demand from October and November (all those people who had waited until the website was pronounced fixed before trying to access it). But even under this heavy load, the website held up. Rather than freezing up or giving error messages, there was a newly-added safety valve built in, and it seems to be working as designed. On the website's biggest traffic day (last week), even with over a million people accessing the website on the same day, the wait times were reported as only seven minutes, after the safety valve ("take a number, leave your email, and we'll contact you when you can log on") was turned on. That's a pretty acceptable wait time for such a high-volume day. Also encouraging on this front was the reported fact that the safety valve was dynamic - the website operators could adjust when it kicked in, to deal with whatever load problems developed. On the first day of December, there was an initial rush (after the White House proclaimed the site up and ready) and the "take a number" feature was set to kick in when the system got over 30,000 users simultaneously. The specification for the system had initially been 50,000 simultaneous users. But by the biggest spike at the end of the month, the system was successfully handling something like 80,000 users at once, before the safety valve was turned on. That is huge progress, and bodes well for the final projected big spike (at the end of March). So my initial fears of the newly-fixed website being overwhelmed by a December spike were not realized, thankfully. Whoever programmed (or came up with the idea of) the safety valve feature deserves a fat raise, that's all I can say. The White House has been controlling the data flow about the website **with considerable political finesse**. They initially announced that they'd only release numbers once a month, but this still leaves them free to leak numbers whenever they wish (whenever the numbers look particularly good, to put this another way). We've just had such an "authorized leak," so let's take a look at what's being reported. In December, it looks like the number of people who successfully signed up for private insurance on the federal Obamacare website (this doesn't count people who signed up for Medicare or Medicaid, in other words) was over a million. The other figure I've heard batted around is that when you add in everyone who has signed up since the October launch - including those who have signed up through state exchanges - that a total of around two million people have now successfully signed up. The last time I looked at the numbers was in November, when the official pre-leak for that month happened. The final numbers were pretty close to the initial numbers, and what they showed was that around 500,000 people had signed up in October and November (on both the federal and state exchanges). But the target that had been set was to sign up at least seven million by the end of March. Two months into a six-month window (one-third of the period), they had only hit one-fourteenth of the target. Which was pretty worrisome. Now, however, the numbers look a whole lot better. If the leak proves true, it would mean that approximately 1.5 million people signed up in December. Now, December was a "spike" month, and this number will likely go down in January and February, but then will reach what will possibly be an even-larger spike when the final deadline nears. So while it's tricky to use averages in this case, doing so nevertheless shows that Obamacare could come very close indeed to the initial estimate. If the next three months are as successful as December was, that would mean an additional 4.5 million people signed up. For a grand total of 6.5 million - pretty close to the initial target set. So, even with the inaccuracies inherent in this sort of averaging, it's at least within the realm of possibility that Obamacare's numbers will look pretty good by the end of March. Which is, significantly, the first time that claim could ever realistically be made. With the website largely fixed and the deadlines passed for insurance policy cancellations, the stories in the media are going to shift. What they shift to remains to be seen. Both Democrats and Republicans will be trying to influence this storyline, meaning we're in for a month of fierce political spin, folks. Republicans will be scouring the land for personal stories of any failure in the new system. While the error rates are way down (below one percent), there will undoubtedly be stories of people who thought they were insured and who went to a doctor, only to find out that the insurance company doesn't have them on the rolls yet. Perhaps there will be people who "can't find a doctor" on their new plans. I'm sure Republicans will be diligent in digging out such stories. Democrats will be pushing more positive storylines, of course. The best ones will be "I visited a doctor for the first time in years, and can now get my medical problems treated without entering bankruptcy." This, after all, was the whole point of the Obamacare program. A video of some poor soul weeping tears of joy after receiving their first cancer treatment will be a good example of this. The real question is which one the media will run with. Perhaps at the start, the two storylines will be balanced. But after a few weeks, the problems of "not having my insurance card when I thought I was insured" will likely fade, as the insurance companies fix individual problems. The official release of the website numbers for December will come mid-month, which could also bolster the positive storyline. Of course, problems with insurance companies didn't begin when Obamacare was passed (they were, in fact, the reason for passing Obamacare in the first place), and they're not all magically going to end overnight either. So there will always be stories of people seriously annoyed at health insurance companies for one reason or another.

#### Obama’s agenda is set-up for success—he has the capital but fortunes can still reverse

Dean Obeidallah, Daily Beast, 1/3/13, 6 Reasons This Could Be Obama’s Best Year as President, www.thedailybeast.com/articles/2014/01/03/6-reasons-this-could-be-obama-s-best-year-as-president.html

“Obama is done! He’s a lame duck. It’s over for the president.” These are the type of the comments we saw in the media as 2013 came to a close. As some political pundits saw it, Obama can forget seeing any of his proposals enacted and should simply enjoy the perks of being president -like free cable and limo rides. Could they be right? Sure, it’s possible. Obama’s approval ratings are near his lowest as president and his disapproval rating is at 54 percent, his worst ever. With that said, **2014 could be a great year for the president**—in fact, **it could be his best ever**. I know some of you are thinking: I must be crazy. Well, a lot of people who have been called crazy later went on to be recognized as geniuses. Of course, some who were labeled as “crazy” actually turned out to have mental disorders. In either event, here are the six reasons that 2014 could be Obama’s finest. 1. The US economy is improving: A good economy generally equals higher approval ratings for president **and in turn** more political capital **for him to push for his proposals**. Even President Clinton had an approval rating of 73% in the midst of his impeachment. Why? One big reason was the US economy was strong with unemployment at 4.5% and falling. Currently, the US economy appears poised for growth. The unemployment rate is at its lowest point during the Obama administration at 7%. This is in sharp contrast to the 10% unemployment rate we saw at one time in Obama’s first term. In addition, the stock market just had its best year since 1997, the GDP for the third quarter of 2013 grew at a surprisingly strong 3.6% annual rate and the IMF recently raised its 2014 growth projection for the US economy. 2. Obamacare will get better: It has to-It can’t get worse. And Obamacare was the number 1 reason cited in a recent NBC News/WSJ poll for why people gave the president only a 43% approval rating. But here’s the thing: The Obamacare website issues are now behind us and over 2 million people and counting have signed up for the program. That means Obamacare will soon be judged on its actual merits—not on website issues nor on the constant Republican fear mongering about the law’s uncertainties. If we start hearing stories from Americans whose lives have been made better by this law, expect to see public support rise. That means Obamacare will soon be judged on its actual merits—not on website issues nor on the constant Republican fear mongering. 3. Obama has key issues on his side: President Obama recently stated that 2014 will be his “Year of action.” So expect to see him push hard on issue like immigration reform and raising the minimum wage. Both of these have broad public support. Immigration reform -including a pathway to citizenship as Obama has championed-has the support of 73% of voters. On minimum wage, a November Gallup Poll found that 76% of Americans support a raise form the current level of $7.25 an hour to $9—including 76% of independent voters. Obama is in a win-win situation on these two issues. They pass and it helps him as well as Congressional Dems. The Republicans block them and it will hurt their standing. 4. Republican Party has no ideas: Frankly, the only issue the badly splintered Republican Party seems to agree upon is to repeal Obamacare. That’s a lot to stake your entire 2014 midterm election campaign on—especially given that there’s a real possibility that Obamacare becomes more popular during the year. If the Obamacare issues fades, so, too, do the GOP’s chances of success in 2014 election since the only other issue getting them press is the infighting between its Tea Party and establishment wings. 5. **Political fortunes change fast**: Anyone remember right after the government shutdown in October headlines declaring, “Major damage to GOP after shutdown?” Polls at that time found that the public favored Democrats 50% to 42% over Republicans in generic Congressional match ups. Flash forward just two months later and pollsters now find Republicans leading Democrats 49% to 44%. Who knows where we will stand by November 2014 but all you can say for sure is that the current polls numbers are about as meaningful as the storyline on Duck Dynasty. 6. 2013 was so bad for Obama **he can only go up**: When we look back a year from now on the fortunes of President Obama, it will, of course, be contrasted to 2013. Lets be honest: There are some benefits to having really bad year—namely, it’s easier to make the next one appear better. So there you go: My six reasons why I think 2014 could be an amazing year for President Obama. I encourage you to save this article and if turns I’m right, I expect to be heralded as political soothsayer second only to Nate Silver. And If I’m wrong, I will of course, offer a long list of excuses.

## at: farm bill

Farm bill is a non-issue – Congress will resolve it independent of Obama

Johnson 12/28/13 [TY Johnson, 12/28/13, The Brownsville Herald, “Congress looks beyond budget | Immigration reform, farm bill loom in 2014,” http://m.brownsvilleherald.com/news/local/article\_506a7438-7039-11e3-b28a-0019bb30f31a.html?mode=jqm, accessed 1/4/14]

With Vela sitting on the committee charged with reaching consensus on the farm bill, he said he’s confident Congress can compromise after a year during which Republicans and Democrats differed greatly on what types of cuts should be made to the federal Supplemental Nutrition Assistance Program, formerly food stamps.

“My gut feeling is we’re going to get a farm bill,” he said, noting that commodity issues have overtaken partisan issues with SNAP as the largest impediment to passing the bill, which has implications for both farmers and those receiving SNAP benefits.

Vela characterized the disputes as pitting corn and soybean interests in the Midwest against rice and cotton interests in the South.

But concerns over defaulting to the original farm bill — and skyrocketing milk prices — have been eased, Vela said, as the U.S. Agriculture Department has said milk prices will remain stable while Congress sorts out the bill.

And although Vela said in November that he was skeptical of Republicans’ intentions concerning comprehensive immigration reform during 2014 — an election year — he said the budget deal made him “a little bit more optimistic” about making reform a reality.

Still, factions within the Republican party, especially those who identify as tea party lawmakers, remain powerfully against any compromise that comes close to being amnesty, he said.

“There are certain factions in the Republican Party which insist on excessive border securty measures without any interest in making needed changes in our nation’s immigration policies,” he said. “Those factions remain an impediment to immigration reform.”

Spokesman for House Speaker John Boehner, R-Ohio, suggested that both immigration reform and the farm bill were potential topics that both parties could get behind next year, but said he still wasn’t sure whether the bipartisan agreement on the budget deal was a sign of things to come.

“I don’t know how to read into it in terms of what compromise opportunities lay ahead,” he said. “What I think it does do is clear the deck of some potentially contentious issues and give everyone space to do the normal legislating and governing.”

## at: veto

That’s OUR argument --- but Congress will override the veto and the deal passing EVEN if obama vetos undermines his negotiating leverage

**err neg on veto overrides – Davna and Lobe says it will be a tough fight but the dynamics of an override are tough – so as long as Obama doesn’t further harm his positions, he’ll win**

**Lindsay 11/25** (James, Senior Vice President, Director of Studies, and Maurice R. Greenberg Chair at the Council on Foreign Relations, “Will Congress Overrule Obama’s Iran Nuclear Deal?” <http://blogs.cfr.org/lindsay/2013/11/25/will-congress-overrule-obamas-iran-nuclear-deal/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+jlindsay+%28James+M.+Lindsay%3A+The+Water%27s+Edge%29>)

Does this mean that Congress is going to take Iran policy out of Obama’s hands? Not quite. Any sanctions bill could be vetoed, something the president presumably would do to save his signature diplomatic initiative. The odds that sanctions proponents could override a veto aren’t good. Congress hasn’t overridden one in foreign policy since it imposed anti-apartheid sanctions on South Africa over Ronald Reagan’s objections back in 1986. In that respect, Obama is in a much stronger position than he was back in September when he sought to persuade Congress to authorize a military strike on Syria. Then the difficulties of passing legislation worked against him; now they work for him.

One reason Obama should be able to make a veto stick is party loyalty. Many congressional Democrats won’t see it in their interest to help Republicans rebuke him, and he only needs thirty-four senators to stand by him. Senator Reid has already begun to soften his commitment to holding a sanction vote. As Majority Leader he has considerable freedom to slow down bills and to keep them from being attached to must-pass legislation that would be politically hard for Obama to veto.

## At: Obama irrelevant

#### Obama’s capital gets Dems on board to block sanctions—that ensures effective talks

Michael Barone 12-24, Washington Examiner, Bill to Increase Sanctions on Iran, <http://www.realclearpolitics.com/articles/2013/12/24/bill_to_increase_sanctions_on_iran_121047.html>

Meanwhile, members of Congress are, on one issue, moving to make foreign policy -- something that for more than a century has been largely left to presidents.

This became apparent last week when 26 senators, 13 Democrats and 13 Republicans, co-sponsored a bill to increase sanctions on Iran.

This is not a new idea. The House voted to increase sanctions last July. And it was sanctions, and the threat of increased sanctions, that surely drove Iran's leaders to the negotiating table where they hammered out an interim agreement with Secretary of State John Kerry in Geneva in November.

That agreement, however, left members of Congress of both parties -- and the public -- dissatisfied. For the first time the U.S. recognized, tacitly, Iran's right to continue possessing the centrifuges used to enrich uranium up to the levels needed to produce a nuclear bomb.

It does not take much time or effort to increase the level of enrichment from current to bomb-ready levels.

The agreement leaves a final agreement to be negotiated in six months. But that six-month period only begins when some still unsettled issues are agreed on.

So Iran has more than six months, as things currently stand, to advance its nuclear program -- during which time sanctions will be softened and economic pressure on the mullah regime will be reduced.

The public, which tended to give Barack Obama and his foreign policy positive marks during his first term, has tended to oppose Kerry's Iran agreement, polls show. Evidently many ordinary citizens who don't follow issues closely share the fear of many well-informed members of Congress that the United States is giving up too much and gaining too little.

The sponsors of the Senate sanctions legislation include leading Democrats, like Foreign Relations Chairman Bob Menendez and New York's Charles Schumer, who has been something of a consigliere for Majority Leader Harry Reid.

Six of the 13 Democratic co-sponsors are up for reelection in 2014, as are four of the 13 Republicans (another Republican is retiring).

The top Republican is Illinois's Mark Kirk, a consistent leader on the issue. He is joined with John McCain, Lindsay Graham and Kelly Ayotte, who work together on many foreign policy issues, and prominent freshmen Marco Rubio and Ted Cruz.

The Senate bill would impose increased sanctions six months after the Geneva agreement goes into effect unless Iran agreed to certain specified conditions. Top House leaders, including Foreign Affairs Committee Chairman Ed Royce and ranking Democrat Elliot Engel, seem ready to pass similar or identical legislation.

Backers argue that it would give administration negotiators leverage on Iran to gain agreement on objectives the president has often said he seeks.

The administration doesn't agree. White House Press Secretary Jay Carney said flatly last week that the president would veto the bill. Administration lobbyists have been beseeching Democrats not to back it.

Their arguments don't track with their stated objectives. They say they fear that Iran will walk out of negotiations if more sanctions are threatened. But tough sanctions are what brought them to the table.

They say new sanctions could be passed later. But the Senate bill doesn't put them into effect until later.

They argue that Iran won't ever agree to end uranium enrichment. But the whole point of sanctions is to get the mullah regime to do something it doesn't want to do. If getting to yes were the only objective, we might as well just accept a nuclear-armed Iran.

It's not clear that the sanctions bill will ever get to the floor of the Senate. Even high-caliber sponsors such as Menendez and Schumer may be less persuasive with Harry Reid than calls from the White House.

But it is clear that there are majorities -- solid bipartisan majorities -- in both houses for additional pressure on Iran and for insistence on a final agreement that ends the threat of Iranian nukes rather than one that puts it off for another day.

#### Obama has the trump cards now—he’ll win the fight

**Muhammad, 12/31**/13 – cites David Bositis, Vice President and Senior Research Analyst at the Joint Center for Political and Economic Studies (Askia, The Final Call, “Obama's burden” <http://www.finalcall.com/artman/publish/National_News_2/article_101094.shtml>

In foreign affairs, the President’s burden is made even more awkward by dug-in opposition by leaders of both parties here in this country. **Despite unprecedented breakthroughs** on his watch with Syria concerning its stockpile of chemical weapons, and with Iran concerning its nuclear enrichment plans, the Israel-lobby would prefer more saber-rattling and possible military action than any peaceful resolution. Other challenges are complicated by some of Mr. Obama’s own decisions.

“On the international level,” Dr. Horne explained, “it’s clear that the Obama administration wants to pivot toward Asia, which mean’s China.

“But, you may recall, when he first came into office that was to be accompanied by a reset with Russia, because it’s apparent that the United States confronting Russia and China together is more than a notion. And yet, the Obama administration finds itself doing both.

“Look at its misguided policy towards Ukraine, for example, where it’s confronting Russia head-on, and its confrontation with China off the coast of eastern China. So, I guess in the longer term, it’s probably evident that the most severe challenge for the Obama administration comes from (the) international situation because as we begin to mark the 100th anniversary of the onset of World War I in 2014, it’s evident that unfortunately the international situation today, in an eerie way, resembles some ways the international situation at the end of 1913.

“In the end of 1913 there was a rising Germany, just like there is a rising China. There was a declining Britain, just like there is a declining United States of America, and we all know the rather morbid consequences of World War I, so it is for that reason that I say that I would say that Mr. Obama’s most severe challenge is in the international arena,” said Dr. Horne.

“In terms of foreign policy, his wanting to negotiate with Iran about their stopping their nuclear program, almost immediately there were people in the Congress speaking out in public who were totally against everything he wanted to do,” said Dr. Bositis.

“There are people who don’t want to put any pressure on Israel about coming to terms with the Palestinians. There are people who are unhappy with what he’s done in terms of Syria,” he said. These stumbling blocks also stand in the way of the President’s ability to deliver on his pre-election promise to close the Guantanamo prison camp where hundreds are being detained, although most have been cleared for release by all U.S. intelligence agencies because they pose no threat to this country. Yet the prisoners languish, some even resorting to hunger strikes because of the hopelessness of their plight, with the U.S. turning to painful force-feeding the inmates to keep them from starving themselves to death.

“Change is always hard,” Ms. Jarrett said Mr. Obama told a group of youth leaders recently. “The Civil Rights Movement was hard. People sacrificed their freedom. They went to prison. They got beat up. Look through our history and then look around the world. It’s always hard. You can’t lose faith because it’s hard. It just means you have to try harder. That’s really what drives him every day,” said Ms. Jarrett.

And at the end of the day, Mr. Obama remains in control and holding all the “trump cards.”

“Remember something,” Dr. Bositis said. “These people can say or make all these claims about Obama, but the fact of the matter is that Obama is president, and he’s going to be president for three more years, and he’s going to have a lot more influence than all of these clowns,” who disparage his leadership.

“He’s not going to blink. He learned that lesson. With these guys, they’re like rapists. If you give them an inch, they will own you,” Dr. Bositis concluded.

## Link

#### The plan causes an inter-branch fight that derails Obama’s agenda

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital

Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea."

While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6°

In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failedperhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.

When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena