# 1NC

## 1

The executive branch of the United States federal government should issue and enforce an executive order to establish a policy to require that all remotely piloted aircraft targeting entities in the area known as Pakistan have prior consent from the government of Pakistan. The executive branch should issue and executive order that establishes that this process will be completely transparent and that the executive will abide by its results.

Solves the aff

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

The Madisonian system of oversight has not totally failed. Sometimes legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative prerogatives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion unchecked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is. It is often assumed that this partial failure of the Madisonian system unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are uncertain and possibly nefarious. The partial failure of Madisonian oversight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off. Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such. IV. Executive Signaling: Law and Mechanisms We suggest that the executive's credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations. This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. [\*895] Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types. We begin with some relevant law, then examine a set of possible mechanisms -emphasizing both the conditions under which they might succeed and the conditions under which they might not -and conclude by examining the costs of credibility. A. A Preliminary Note on Law and Self-Binding Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo. n76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of self-binding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, the executive's issuance of a self-binding order can trigger reputational costs. In such cases, repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

Solves the aff.

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

4. Procedural Requirements

Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164 Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165 Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action. a. Ex Ante Procedures Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains. These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169 Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court. An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174 Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176 Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria. The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time. Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target. That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint. Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse. Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns. Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189 It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible. Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants. In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195 While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability. b. Ex Post Review For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism. Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

## 2

Iran deal now—the delay gave Obama time to win over Congress, but signal of presidential resolve is key to Iranian compliance—the impact is nuclear war.

Rothkopf 11/12/13

David, Visiting Scholar, Carnegie Endowment, “This Deal Won’t Seal Itself,” http://carnegieendowment.org/2013/11/12/this-deal-won-t-seal-itself/gtpi

Rest assured however, there are several reasons this apparent screwup will not result in a major investigation as to what "went wrong." The most important of these reasons is that Secretary Kerry and his colleagues in the Obama White House were on some level **relieved** to have the clock stopped on the negotiations. One senior administration official acknowledged that late last week as it became clear that growing political opposition to the pending deal both domestically and from allies overseas demanded attention unless it produced a backlash that could have scuttled the agreement. In this official's words, "we were saved by the bell" as the parties agreed to delay further talks until Nov. 20. There are, of course, other reasons why this apparent breakdown between the United States and the ally with whom we have been working very closely on the P5+1 negotiating process for years, will not be overly scrutinized. One is that while in Abu Dhabi yesterday, Secretary Kerry asserted that it was not the French who undid the talks but the Iranians. He explained there was general agreement on terms but Iranian Foreign Minister Mohammad Javad Zarif and his team "couldn't take it at that particular moment, they weren't able to accept that particular thing." Zarif for his part took to Twitter to suggest that "half of the U.S. draft" was "gutted" on Thursday night and not by Iran. He accused Kerry of spinning the breakdown and warned such diplomatic maneuvering could "further erode confidence." In addition to the U.S.-Iranian "he said-he said" debate, there is also the whispered belief among some -- in both the Middle East and in Washington, acknowledged by at least one person with whom I spoke inside the administration -- that the last minute changes in language and the subsequent "rift" between the United States and France was too politically convenient. Both Paris and Washington were starting to feel the heat from allies like Saudi Arabia and Israel, and though France feared an economic squeeze on the big deals it has pending with the Saudis, the Americans could see organized opposition forming on Capitol Hill. The concern was that this opposition would not only result **in the rejection of any deal reached with Iran but** may even **compromise** a new push for **tougher sanctions** even as the administration was negotiating dialing them back. Such a rejection to the initiative would be absolutely **devastating to the president,** creating echoes of his failed effort to get Congressional support for his proposed very limited intervention in Syria to degrade their chemical weapons stores. In other words, it doesn't really matter who threw the monkey wrench. There was work to be done on this deal both in terms of strengthening its terms but also in garnering the necessary support before signatures were actually set to paper. Even given the Geneva agreement's goal of producing a temporary freeze in Iran's nuclear program while a more permanent deal could be struck, legitimate questions linger over whether the near-term deal could achieve that goal if it did not effectively freeze enrichment efforts and shut down work at an Iranian reactor capable of producing plutonium. Further, the Obama team still **has a great deal of work to do** -- some of which is being done this week by Secretary Kerry and Under Secretary of State Wendy Sherman as they meet with allies in the Middle East -- building support for the deal. This will be tough to do on Capitol Hill and in Saudi Arabia given that at, the moment, both environments seethe with distrust for President Obama. No, even the Iranians should be happy with the delay... and not just for the cynical reason that any delay buys them the time they want and need to advance their nuclear weapons program. They also very much want sanctions relief, and to get it, they **need** the deal to win support from the U.S. Congress. Given the efforts of multiple forces to block the deal, this will mean the Obama administration and the president himself will **have to** systematically **engage opponents** in a way they seldom do on anything. Winning support on Capitol Hill and with the American people for such a deal is potentially the president's next big domestic political test. Failure on this after the failure to win support for his Syria efforts, the blowback from the NSA scandal, and his unsteady and confusing Egypt policies would be a big setback for the president during his second term, a period in which chief executives often turn to foreign policy to shape their legacies. Of central concern to those domestic and international skeptics and opponents of any kind of rapprochement with Iran will be how the administration will ensure any deal is being adhered to and whether they have the resolve to punish Iran for any missteps or misrepresentations. If the President and his team can make a compelling case that they do, and then such a deal is certainly a risk worth taking. However, if the deal is seen as a dodge, as a way to avoid testing the president's resolve to do whatever is necessary to stop Iran from developing nuclear weapons, or even as a way to simply punt the hard questions associated with Iranian nukes to the next Oval Office occupant, then few will or should support what would amount to simply papering over one of the Middle East's great problems. In short, the most critical component of this deal is not the words drafted by diplomats but what lies in the heart of the Iranians and the president of the United States. If Iran reverses past patterns and actually complies, the deal could be part of a game-changing **reduction of tension** that **all in the region should welcome**. But because that is a change without precedent and one that goes against the grain of decades' worth of Iranian behavior, as well as the character and commitment of the president of the United States, it is even more important to its success. If the Iranians believe President Obama is resolved to enforce it swiftly and decisively, it may work. If they think he will be reluctant to take tough enforcement measures, if they think he can be played -- either because he wants the legacy of an apparently successful deal or because he simply is loath to run the risk of costly, dangerous military action against Iran -- **then history suggests they will play him** (much as past U.S. leaders have been played in other such "deals" as was the case with North Korea). One more caveat however, has gotten too little attention during the recent debate about these negotiations. Even if an agreement is ultimately successfully structured, implemented, and enforced, solving the Iranian nuclear problem does not resolve the Iran problem for the entire region or for the United States and its allies. But it would be a great step forward. That is not to be minimized. No one should **want a nuclear arms race** **in the Middle East** or allow for such a volatile region (or the world) to be poised on the precipice of the catastrophe of nuclear war or nuclear terrorism. Though Iran has, to date, never been a nuclear power, it has caused plenty of problems nonetheless. It remains the world's leading state sponsor of terror. It seeks to be a regional hegemon with clients at work at its behest in Iraq, Syria, Lebanon, and Gaza. It can **cause havoc in global oil markets** **via** the use of conventional weapons or even just **sabre-rattling** that might jeopardize shipping routes. No proposed deal addresses these threats or those that may emerge elsewhere (as in Western Afghanistan, for example).

The plan undermines Obama’s war power credibility—that kills negotiations

Matthew Waxman, professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State, 1/28/13, Executive-Congressional Relations and National Security, www.advancingafreesociety.org/the-briefing/executive-congressional-relations-and-national-security/

The last four years should have been a good period for executive-congressional relations in the areas of national security and foreign affairs. The president, vice president, and secretary of state were former Senators. They all viewed President George W. Bush as too inclined to bypass or ignore Congress and they promised to do better. And the Obama administration started with Democratic majorities in the House and Senate.

It is thus surprising that the past four years have been notable for inter-branch clashes and paralysis on some major national security agenda items, with the administration failing to engage Congress or operating in a slowly reactive mode, while many congressional Republicans remain in an obstructionist mode. In the second term, the Obama administration will need to pick its legislative priorities more deliberately, engage with allies and opponents in Congress more actively, and be willing to negotiate compromises or wage aggressive campaigns on key issues.

Congress has repeatedly stifled the president’s signature counterterrorism promise to close the Guantanamo Bay detention facility. Congress’s opposition has been more than political. Beginning with legislation in 2010 when Democrats controlled both houses of Congress, Congress has consistently placed legal barriers on the president’s ability to transfer Guantanamo detainees or to try them in civilian courts in the United States. After hinting in his speech at the National Archives in 2009 that he would work with Congress on these issues, Obama has put forward no proposal of his own, nor has his administration been willing to explore possible compromises on long-term Guantanamo policies, instead playing defense against moves by congressional blocs with their own Guantanamo agendas. That defensive strategy has included a series of veto threats, which were always abandoned in the end and now carry little credibility.

With regard to war powers, the administration barely escaped a significant congressional rebuke after it failed to obtain congressional authorization for the operations in Libya in 2011 or at least to advance a convincing account for why such authorization was not needed. The administration conducted international diplomacy effectively, and obtained UN Security Council and Arab League endorsement of military operations to protect Libyan civilians from slaughter. However, on the domestic front it alienated even congressional supporters of its policy with poor early consultation on the Hill. In the end, Senate Majority Leader Harry Reid prevented the Senate from taking up a resolution passed by the Foreign Relations Committee that would have authorized the operation but rejected the administration’s strained interpretation of the War Powers Resolution. Throughout the Libya crisis, the administration’s approach toward Congress was passive and tentative. It was fortunate for the administration that Congress was splintered and few members were willing to defend its institutional prerogatives, at least within the limited timeframe of the intervention. But Obama might not be so lucky the next time.

As to treaties, the administration garnered super-majority Senate advice and consent on a record-low number of agreements in its first term. Despite a strong effort by Secretary of State Hillary Clinton and the Navy leadership, the administration failed to get the UN Convention on the Law of the Sea out of the Senate Foreign Relations Committee. Once again, part of the explanation for failure was the administration’s poorly timed and coordinated engagement of the Senate on the issue. In the face of Senate Republican portrayals of other global treaties as threats to US sovereignty, the White House failed to throw its full weight behind its valid arguments that the Law of the Sea Convention would strengthen the US position with respect, for example, to crisis hotspots in Asia and in commercial spheres.

To be clear, the Obama administration has scored successes, too. For example, putting aside the policy merits, it worked reasonably well with Congress on the completed wind-down of the Iraq war. It will need to do the same with respect to the planned wind-down of the Afghanistan war and in developing a long-term strategy for Afghanistan and Pakistan. Much of the blame for policy incoherence on many national security issues such as cybersecurity lies with Congress, which is infected by political polarization and dysfunction as much in international affairs as it is in domestic affairs.

Going forward, the Obama administration will need to bring the same kind of sustained attention and hard-nosed strategic thinking to its legislative agenda on national security issues as it has on some major domestic policy issues. First, it will need to be selective in its legislative agenda and then wage aggressive campaigns on matters it labels national security priorities. It did so early in the first term with respect to the New START Treaty, which was in danger of collapse until the administration went all out for it. Obama’s team enlisted influential allies from previous Republican administrations, engaged in a serious communications campaign at the highest levels, and negotiated as necessary to get the key votes in favor of the treaty.

On some issues, the administration will need to decide on a coherent policy internally and then more actively engage both its allies and opponents on Capitol Hill. One area where this will be important is the legal architecture of counterterrorism policy. It is widely understood that continuing to rely on the September 2001 congressional Authorization for Use of Military Force as the basis for detention and targeting operations is increasingly problematic as al Qaeda splinters apart and as the United States winds down combat operations in Afghanistan. The Obama administration also maintains publicly a commitment to closing Guantanamo. Yet it has not come forward with proposed legislative frameworks for dealing with these issues. Even though the president has said repeatedly that he wants to work with Congress on a more durable legal architecture for counterterrorism operations, the administration has been reactive and appears to be undecided about what, if anything, it wants from Congress.

Another area in which executive-congressional relations will feature heavily is Iran’s nuclear build-up, surely one of the most delicate and complex international crises the administration will face this year. After engaging seriously only at the last minute, it has had to swallow several times congressionally-mandated sanctions that it regards as counterproductive. As the administration tries to ramp up pressure, it will need to convince skeptical members of Congress that it is applying tough diplomatic pressure on other UN Security Council members and on Iran’s trading partners. If—under the most optimistic scenarios—it reaches a satisfactory negotiated solution (or establishes a process toward one) with Iran, it will need Congress onboard; otherwise it will find its freedom to maneuver and deliver on assurances severely constrained.

## 3

Obama pushing immigration—it’ll get through

Reid Epstein, Politico, 11/13/13, Obama: Don't let ACA problems stop immigration, dyn.politico.com/printstory.cfm?uuid=D92FF3A4-19D5-41D2-A8F1-C56D6BC23E08

President Barack Obama gave immigration reform advocates a simple message Wednesday: Don’t let Obamacare get you down. In an Oval Office meeting with eight Christian faith leaders, the president said he remains engaged on immigration legislation and hopes the reform effort can get a fair hearing despite his other political problems, several faith leaders told POLITICO. “He said he doesn’t want other debates that are going on to hurt this,” said Jim Wallis, the president and CEO of the Christian social justice agency Sojourners. “He doesn’t want all the other debates going on to prevent this from passing. It’s caught up in all the other debates and he wants this to be looked at on his own merits.” Obama’s exhortation came during a meeting just hours before his administration released the first batch of Affordable Care Act enrollment numbers – a figure the White House had for weeks telegraphed as far lower than expected. Much of Obama’s Oval Office conversation with the faith leaders, Biden and top aides Valerie Jarrett, Cecilia Munoz and Melissa Rogers centered around the idea that contemporary Washington politics is blocking reform efforts, the faith leaders said. Obama, they said, didn’t make a direct ask for them to press Congress to back the reform effort, as Vice President Joe Biden implored Catholic leaders to do during a call Tuesday night. Instead he asked for their input on how the current immigration system is harming their communities and echoed the urgency to pass reform legislation by the end of the year. But with House Speaker John Boehner (R-Ohio) announcing earlier in the day that he has “no intention of ever going to conference on the Senate bill,” it was clear to all in the room that immigration reform has lost momentum it had after the Senate immigration bill passed. “This can be a companion issue that also deserves some attention because we’ve come so far on this issue and we can’t let it get lost in the battle du jour,” said Joel Hunter, the senior pastor at Northland Church in suburban Orlando. “I think all of us are hoping that the headlines of the daily accusations don’t bury what is a very important and urgent issue in our time.” And still, Obama told the faith leaders he remains optimistic there will be progress by the end of December. “I did get the sense that he was wanting to reassure us that this is a priority for him,” said Russell Moore, the president of the Southern Baptist Ethics and Religious Liberty Commission. “He actually does want to work with Congress to get a bill, not to just to have an issue.” White House officials declined to comment on specifics of the meeting. In an official readout, the White House said Obama once again blamed House Republicans for blocking a vote. “The president and the leaders discussed their shared commitment to raise the moral imperative for immigration reform and said they will continue keeping the pressure on Congress so they can swiftly pass commonsense reform,” the statement said. “The president commended the faith leaders for their tireless efforts in sharing their stories with Congress. He noted there is no reason for House Republicans to continue to delay action on this issue that has garnered bipartisan support. Moore, a conservative evangelical leader, said he warned Obama not to make immigration a partisan political issue. “I did say to the president that I think he needs to take seriously that the Republicans in Congress are operating out of what I believe to be good motives and that there needs to be a sense of cooperation and not divisiveness on this issue,” Moore said. “I think that was well received. I think the president seemed to indicate that that’s what he wants to do.” Wallis said there was a discussion during the meeting that the upcoming holiday season could give a boost to the reform efforts as families and churches gather. “The holiday season now happens to be coming in the end game. Here are the holidays, religious holidays, maybe there is something there,” Wallis said. “We are hearing a president say, ‘I don’t want politics to prevent this. How can we transcend and reach people to make this not just political. What can you do to help us get this beyond the politics?’” Biden on Tuesday night told Catholic officials to make their opinions known forcefully to House Republicans. He said they can’t repeat the mistakes of the gun control fight, when opponents of expanding background checks on gun purchases outnumbered White House allies in calls and e-mails to senators debating the legislation. “Thank the representatives when you call who are already in favor of reform, especially the 32 Republicans who have expressed for a path to citizenship,” Biden said. “Give them a little bit of love and appeal to their better angels, the better angels of those who are still on the fence to take a politically courageous decision.” Hunter said the push will require some help from the public to spur House Republican leadership to call a vote. “We think that the votes are there and we think it is tricky for folks to vote the way they want to,” Hunter said. “They just need some momentum from the public in order to have the justification for voting the way they already want to.”

The plan sparks an inter-branch fight derailing the 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

That destroys Obama’s push—it’s critical to lock-up a House vote

Bill Scher, The Week, 10/18/13, How to make John Boehner cave on immigration, theweek.com/article/index/251361/how-to-make-john-boehner-cave-on-immigration

Speaker John Boehner (R-Ohio) generally adheres to the unwritten Republican rule that bars him from allowing votes on bills opposed by a majority of Republicans, even if they would win a majority of the full House.

But he's caved four times this year, allowing big bills to pass with mainly Democratic support. They include repealing the Bush tax cuts for the wealthiest Americans; providing Hurricane Sandy relief; expanding the Violence Against Women act to better cover immigrants, Native Americans, and LGBT survivors of abuse; and this week's bill raising the debt limit and reopening the federal government.

Many presume the Republican House is a black hole sucking President Obama's second-term agenda into oblivion. But the list of Boehner's past retreats offers a glimmer of hope, especially to advocates of immigration reform. Though it has languished in the House, an immigration overhaul passed with bipartisan support in the Senate, and was given a fresh push by Obama in the aftermath of the debt limit deal.

The big mystery that immigration advocates need to figure out: What makes Boehner cave? Is there a common thread? Is there a sequence of buttons you can push that forces Boehner to relent?

Two of this year's caves happened when Boehner was backed up against hard deadlines: The Jan. 1 fiscal cliff and the Oct. 17 debt limit. Failure to concede meant immediate disaster. Reject the bipartisan compromise on rolling back the Bush tax cuts, get blamed for jacking up taxes on every taxpayer. Reject the Senate's three-month suspension of the debt limit, get blamed for sparking a global depression. Boehner held out until the absolute last minute both times, but he was not willing to risk blowing the deadline.

A third involved the response to an emergency: Hurricane Sandy. Conservative groups were determined to block disaster relief because — as with other federal disaster responses — the $51 billion legislative aid package did not include offsetting spending cuts. Lacking Republican votes, Boehner briefly withdrew the bill from consideration, unleashing fury from New York and New Jersey Republicans, including Gov. Chris Christie. While there wasn't a hard deadline to meet, disaster relief was a time-sensitive matter, and the pressure from Christie and his allies was unrelenting. Two weeks after pulling the bill, Boehner put it on the floor, allowing it to pass over the objections of 179 Republicans.

The fourth cave occurred in order to further reform and expand a government program: The Violence Against Women Act. The prior version of the law had been expired for over a year, as conservatives in the House resisted the Senate bill in the run-up to the 2012 election. But after Mitt Romney suffered an 18-point gender gap in his loss to Obama, and after the new Senate passed its version again with a strong bipartisan vote, Boehner was unwilling to resist any longer. Two weeks later, the House passed the Senate bill with 138 Republicans opposed.

Unfortunately for immigration advocates, there is no prospect of widespread pain if reform isn't passed. There is no immediate emergency, nor threat of economic collapse.

But there is a deadline of sorts: The 2014 midterm elections.

If we've learned anything about Boehner this month, it's that he's a party man to the bone. He dragged out the shutdown and debt limit drama for weeks, without gaining a single concession, simply so his most unruly and revolutionary-minded members would believe he fought the good fight and stay in the Republican family. What he won is party unity, at least for the time being.

What Boehner lost for his Republicans is national respectability. Republican Party approval hit a record low in both the most recent NBC/Wall Street Journal poll and Gallup poll.

Here's where immigration advocates have a window of opportunity to appeal to Boehner's party pragmatism. Their pitch: The best way to put this disaster behind them is for Republicans to score a big political victory. You need this.

A year after the Republican brand was so bloodied that the Republican National Committee had to commission a formal "autopsy," party approval is the worst it has ever been. You've wasted a year. Now is the time to do something that some voters will actually like.

There's reason to hope he could be swayed. In each of the four cases in which he allowed Democrats to carry the day, he put the short-term political needs of the Republican Party over the ideological demands of right-wing activists.

Boehner will have to do another round of kabuki. He can't simply swallow the Senate bill in a day. There will have to be a House version that falls short of activists' expectations, followed by tense House-Senate negotiations. Probably like in the most formulaic of movies, and like the fiscal cliff and debt limit deals, there will have to be an "all-is-lost moment" right before we get to the glorious ending. Boehner will need to given the room to do all this again.

But he won't do it without a push. A real good push.

Immigration reform necessary to sustain the economy and competitiveness

Javier Palomarez, Forbes, 3/6/13, The Pent Up Entrepreneurship That Immigration Reform Would Unleash, www.forbes.com/sites/realspin/2013/03/06/the-pent-up-entrepreneurship-that-immigration-reform-would-unleash/print/

The main difference between now and 2007 is that today the role of immigrants and their many contributions to the American economy have been central in the country’s national conversation on the issue. Never before have Latinos been so central to the election of a U.S. President as in 2012. New evidence about the economic importance of immigration reform, coupled with the new political realities presented by the election, have given reform a higher likelihood of passing. As the President & CEO of the country’s largest Hispanic business association, the U.S. Hispanic Chamber of Commerce (USHCC), which advocates for the interests of over 3 million Hispanic owned businesses, I have noticed that nearly every meeting I hold with corporate leaders now involves a discussion of how and when immigration reform will pass. The USHCC has long seen comprehensive immigration reform as an economic imperative, and now the wider business community seems to be sharing our approach. It is no longer a question of whether it will pass. Out of countless conversations with business leaders in virtually every sector and every state, a consensus has emerged: our broken and outdated immigration system hinders our economy’s growth and puts America’s global leadership in jeopardy. Innovation drives the American economy, and without good ideas and skilled workers, our country won’t be able to transform industries or to lead world markets as effectively as it has done for decades. Consider some figures: Immigrant-owned firms generate an estimated $775 billion in annual revenue, $125 billion in payroll and about $100 billion in income. A study conducted by the New American Economy found that over 40 percent of Fortune 500 companies were started by immigrants or children of immigrants. Leading brands, like Google, Kohls, eBay, Pfizer, and AT&T, were founded by immigrants. Researchers at the Kauffman Foundation released a study late last year showing that from 2006 to 2012, one in four engineering and technology companies started in the U.S. had at least one foreign-born founder — in Silicon Valley it was almost half of new companies. There are an estimated 11 million undocumented workers currently in the U.S. Imagine what small business growth in the U.S. would look like if they were provided legal status, if they had an opportunity for citizenship. Without fear of deportation or prosecution, imagine the pent up entrepreneurship that could be unleashed. After all, these are people who are clearly entrepreneurial in spirit to have come here and risk all in the first place. Immigrants are twice as likely to start businesses as native-born Americans, and statistics show that most job growth comes from small businesses. While immigrants are both critically-important consumers and producers, they boost the economic well-being of native-born Americans as well. Scholars at the Brookings Institution recently described the relationship of these two groups of workers as complementary. This is because lower-skilled immigrants largely take farming and other manual, low-paid jobs that native-born workers don’t usually want. For example, when Alabama passed HB 56, an immigration law in 2012 aimed at forcing self-deportation, the state lost roughly $11 billion in economic productivity as crops were left to wither and jobs were lost. Immigration reform would also address another important angle in the debate – the need to entice high-skilled immigrants. Higher-skilled immigrants provide talent that high-tech companies often cannot locate domestically. High-tech leaders recently organized a nationwide “virtual march for immigration reform” to pressure policymakers to remove barriers that prevent them from recruiting the workers they need. Finally, and perhaps most importantly, fixing immigration makes sound fiscal sense. Economist Raul Hinojosa-Ojeda calculated in 2010 that comprehensive immigration reform would add $1.5 trillion to the country’s GDP over 10 years and add $66 billion in tax revenue – enough to fully fund the Small Business Administration and the Departments of the Treasury and Commerce for over two years. As Congress continues to wring its hands and debate the issue, lawmakers must understand what both businesses and workers already know: The American economy needs comprehensive immigration reform.

Extinction

**Auslin 9**

(Michael, Resident Scholar – American Enterprise Institute, and Desmond Lachman – Resident Fellow – American Enterprise Institute, “The Global Economy Unravels”, Forbes, 3-6, http://www.aei.org/article/100187)

What do these trends mean in the short and medium term? The Great Depression showed how social and **global chaos** followed hard on economic collapse. The mere fact that parliaments across the globe, from America to Japan, are unable to make responsible, economically sound recovery plans suggests that they do not know what to do and are simply hoping for the least disruption. Equally worrisome is the adoption of more statist economic programs around the globe, and the concurrent decline of trust in free-market systems. The threat of instability is a pressing concern. China, until last year the world's fastest growing economy, just reported that 20 million migrant laborers lost their jobs. Even in the flush times of recent years, China faced upward of 70,000 labor uprisings a year. A sustained downturn poses grave and possibly immediate threats to Chinese internal stability. The regime in Beijing may be faced with a choice of repressing its own people or diverting their energies outward, leading to conflict with China's neighbors. Russia, an oil state completely dependent on energy sales, has had to put down riots in its Far East as well as in downtown Moscow. Vladimir Putin's rule has been predicated on squeezing civil liberties while providing economic largesse. If that devil's bargain falls apart, then wide-scale repression inside Russia, along with a continuing threatening posture toward Russia's neighbors, is likely. Even apparently stable societies face increasing risk and the threat of internal or possibly external conflict. As Japan's exports have plummeted by nearly 50%, one-third of the country's prefectures have passed emergency economic stabilization plans. Hundreds of thousands of temporary employees hired during the first part of this decade are being laid off. Spain's unemployment rate is expected to climb to nearly 20% by the end of 2010; Spanish unions are already protesting the lack of jobs, and the specter of violence, as occurred in the 1980s, is haunting the country. Meanwhile, in Greece, workers have already taken to the streets. Europe as a whole will face dangerously increasing tensions between native citizens and immigrants, largely from poorer Muslim nations, who have increased the labor pool in the past several decades. Spain has absorbed five million immigrants since 1999, while nearly 9% of Germany's residents have foreign citizenship, including almost 2 million Turks. The xenophobic labor strikes in the U.K. do not bode well for the rest of Europe. A prolonged global downturn, let alone a collapse, would **dramatically raise tensions** inside these countries. Couple that with possible protectionist legislation in the United States, unresolved ethnic and territorial disputes in **all regions of the globe** and a loss of confidence that world leaders actually know what they are doing. The result may be a series of small explosions that coalesce **into a big bang**.

## 4

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

Margulies ‘11

Joseph, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago., Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush., “Terrorizing Academia,” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

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 synopticonalso 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.

## relations

at pak rels

Can't solve Pakistan relations

Haqqani 13

HUSAIN HAQQANI is Professor of International Relations at Boston University and a Senior Fellow at the Hudson Institute. He served as Pakistan's Ambassador to the United States in 2008-11, Foreign Affairs, March/April 2013, "Breaking Up Is Not Hard to Do", http://www.foreignaffairs.com/articles/138845/husain-haqqani/breaking-up-is-not-hard-to-do

Washington has not had an easy time managing the U.S.-Pakistani relationship, to put it mildly. For decades, the United States has sought to change Pakistan's strategic focus from competing with India and seeking more influence in Afghanistan to protecting its own internal stability and economic development. But even though Pakistan has continued to depend on U.S. military and economic support, it has not changed its behavior much. Each country accuses the other of being a terrible ally -- and perhaps both are right.

Pakistanis tend to think of the United States as a bully. In their view, Washington provides desperately needed aid intermittently, yanking it away whenever U.S. officials want to force policy changes. Pakistanis believe that Washington has never been grateful for the sacrifice of the thousands of Pakistani military and security officials who have died fighting terrorists in recent decades, nor mourned the tens of thousands of Pakistani civilians whom those terrorists have killed. Many in the country, including President Asif Ali Zardari and General Ashfaq Kayani, the army chief, recognize that Pakistan has at times gone off the American script, but they argue that the country would be a better ally if only the United States showed more sensitivity to Islamabad's regional concerns.

On the other side, Americans see Pakistan as the ungrateful recipient of almost $40 billion in economic and military assistance since 1947, $23 billion of it for fighting terrorism over the last decade alone. In their view, Pakistan has taken American dollars with a smile, even as it covertly developed nuclear weapons in the 1980s, passed nuclear secrets to others in the 1990s, and supported Islamist militant groups more recently. No matter what Washington does, according to a growing cadre of U.S. senators, members of Congress, and editorial writers, it can't count on Pakistan as a reliable ally. Meanwhile, large amounts of U.S. aid have simply failed to invigorate Pakistan's economy.

The May 2011 U.S. covert operation in Abbottabad that killed Osama bin Laden brought the relationship to an unusually low point, making it harder than ever to maintain the illusion of friendship. At this point, instead of continuing to fight so constantly for so little benefit -- money for Pakistan, limited intelligence cooperation for the United States, and a few tactical military gains for both sides -- the two countries should acknowledge that their interests simply do not converge enough to make them strong partners. By coming to terms with this reality, Washington would be freer to explore new ways of pressuring Pakistan and achieving its own goals in the region. Islamabad, meanwhile, could finally pursue its regional ambitions, which would either succeed once and for all or, more likely, teach Pakistani officials the limitations of their country's power.

Afghan instability is inevitable but wont escalate

Finel 9 [Dr. Bernard I. Finel, an Atlantic Council contributing editor, is a senior fellow at the American Security Project, “Afghanistan is Irrelevant,” Apr 27 http://www.acus.org/new\_atlanticist/afghanistan-irrelevant]

It is now a deeply entrenched conventional wisdom that the decision to “abandon” Afghanistan after the Cold War was a tragic mistake. In the oft-told story, our “abandonment” led to civil war, state collapse, the rise of the Taliban, and inevitably terrorist attacks on American soil. This narrative is now reinforced by dire warnings about the risks to Pakistan from instability in Afghanistan. Taken all together, critics of the Afghan commitment now find themselves facing a nearly unshakable consensus in continuing and deepen our involvement in Afghanistan. The problem with the consensus is that virtually every part of it is wrong. Abandonment did not cause the collapse of the state. Failed states are not always a threat to U.S. national security. And Pakistan’s problems have little to do with the situation across the border. First, the collapse of the Afghan state after the Soviet withdrawal had little to do with Western abandonment. Afghanistan has always been beset by powerful centrifugal forces. The country is poor, the terrain rough, the population divided into several ethnic groups. Because of this, the country has rarely been unified even nominally and has never really had a strong central government. The dominant historical political system in Afghan is warlordism. This is not a consequence of Western involvement or lack thereof. It is a function of geography, economics, and demography. Second, there is no straight-line between state failure and threats to the United States. Indeed, the problem with Afghanistan was not that it failed but rather that it “unfailed” and becameruled by the Taliban. Congo/Zaire is a failed state. Somalia is a failed state. There are many parts of the globe that are essentially ungoverned. Clearly criminality, human rights abuses, and other global ills flourish in these spaces. But the notion that any and all ungoverned space represents a core national security threat to the United States is simply unsustainable. Third, the problem was the Taliban regime was not that it existed. It was that it was allowed to fester without any significant response or intervention. We largely sought to ignore the regime — refusing to recognize it despite its control of 90% of Afghan territory. Aside from occasional tut-tutting about human rights violations and destruction of cultural sites, the only real interaction the United States sought with the regime was in trying to control drugs. Counter-drug initiatives are not a sound foundation for a productive relationship for reasons too numerous to enumerate here. Had we recognized the Taliban and sought to engage the regime, it is possible that we could have managed to communicate red lines to them over a period of years. Their failure to turn over bin Laden immediately after 9/11 does not necessarily imply an absolute inability to drive a wedge between the Taliban and al Qaeda over time. Fourth, we are now told that defeating the Taliban in Afghanistan is imperative in order to help stabilize Pakistan. But, most observers seem to think that Pakistan is in worse shape now — with the Taliban out of power and American forces in Afghanistan — than it was when the Taliban was dominant in Afghanistan. For five years from 1996 to 2001, the Taliban ruled Afghanistan and the Islamist threat to Pakistan then was unquestionably lower. This is not surprising actually. Insurgencies are at their most dangerous — in terms of threat of contagion — when they are fighting for power. The number of insurgencies that actually manage to sponsor insurgencies elsewhere after taking power is surprising low. The domino theory is as dubious in the case of Islamist movements as it was in the case of Communist expansion. There is a notion that “everything changed on 9/11.” We are backing away as a nation from that concept in the case of torture. Perhaps we should also come to realize that our pre-9/11 assessment of the strategic value and importance of Afghanistan was closer to the mark that our current obsession with it. We clearly made some mistakes in dealing with the Taliban regime. But addressing those mistakes through better intelligence, use of special forces raids, and, yes, diplomacy is likely a better solution than trying to build and sustain a reliable, pro-Western government in Kabul with control over the entire country.

No central asia war – countries want stability

Rogers 13 (Samuel, Advisor for the GPRA Group, The GPRA Group provides micro political and trade risk services to multinationals, insurance companies and financial institutions operating in emerging markets., 3/4/2013, "Central Asia: What's Next?", www.gpra-group.com/2/post/2013/03/central-asia-whats-next.html)

In recent years, Russia and to a lesser extent China, have been making inroads into consolidating their power within the region. The former set up the Customs Union to incorporate Kazakhstan into a free trade area; mediated between Kyrgyz and Uzbek leaders during and following the 2010 ethnic clashes; and secured natural resource transit route rights from the region to Europe. For its part, China extended its Western borders by incorporating 1% of Tajikistan into Chinese territory; sees Central Asia as vital as a source of natural gas; views the area as a buffer zone to Russian and US expansionism; and has acted as an influential actor in offsetting Uyghur separatist intentions. Additionally, China has continued to increase investment in Afghanistan’s fledgling mineral sector and has agreed to train Afghan police, ahead of the planned US troop withdrawal in 2014.¶ Political and economic stability are of paramount importance to Russia and China. Putin may look to expand the Customs Union in order to be in a position to rival the influence of the EU (increased Kazakh-Kyrgyz economic cooperation has recently been discussed). China is concerned with extinguishing discontent in its Muslim-dominated Western regions and increasing economic cooperation. Premier Wen Jiabao visited Bishkek in December 2012 in an official state visit, which aimed to consolidate Sino-Kyrgyz relations against the backdrop of signing four official documents on economic cooperation, geology and financial investment for transport infrastructure, which reveal China’s desire for a more hands-on approach to diplomatic relations between the two states, which only began in 1992. The US, for the immediate future, will be primarily concerned with maintaining its ability to station military personnel in Central Asia and diversify supply routes to avoid over-reliance on Pakistan for operations in Afghanistan as the 2014 deadline will now likely be surpassed.¶ All three powers desire to preserve the political status quo and keep the current, long-standing incumbents in office. It is therefore likely that in the event of internal political struggles, ranging from ethnic, religious or labour-related in nature, a swift return to the status quo will ensue. In 2010, for example, following widespread civil unrest in Kyrgyzstan, and the ousting of President Bakiyev, the 2011 elections saw the not dissimilar incumbent Atambayev elected amid strong international support.¶ With newly-elected Chinese General Secretary Xi Jinping and the recent re-elections of Presidents Putin and Obama, 2013 will provide observers and investors a clearer picture of official policy towards the region. Central Asian states are likely to remain politically stable and will present development opportunities as diverse as mining, dam construction and telecommunications, all of which are enjoying FDI from Russia and China. The Russian Direct Investment Fund (RDIF) and the Chinese Investment Corporation (CIC), both official government-sponsored investment bodies, have jointly invested $2bn in Central Asian projects, a figure which is planned to rise to $4bn.¶ The Next Five Years¶ Whilst it is unlikely there will be a ‘hot’ war between any of these major powers, there is potential for conflict by proxy within the region. Areas of concern are the Afghan-Tajik border region, and internal deterioration in US-Pakistan relations, engineered by external forces. Civil unrest also has potential to re-emerge within states and also may have a ‘spill-over effect’, with the potential to permeate borders as seen in 2010 in Kyrgyzstan and Uzbekistan. Sudden price drops or price hikes in natural resources would also have the capacity to adversely affect trade and transit agreements between the countries.¶ With the US set to channel funding more directly into East Asia in order to ‘face’ China’s increased regional dominance over the coming years, US military spending in Central Asia will decline, leaving a potential vacuum into which China and Russia will seek to enter through soft power; a policy, which Russia has recently openly stated it intends to pursue, and China has a long-standing policy of.¶ Observers of the region will note the rise in bilateral agreements between China and the Central Asian states - actions which make a break from traditional Chinese policy; the growing economic strength of the Customs Union; and the potential for conflict in Iran. These factors amongst others will determine the geopolitical situation of the former Soviet states over the next five years, and beyond.¶ Further afield, India, Japan, South Korea and Turkey are all observing the situation in Central Asia. India, the dominant force in South Asia, will look to expand its horizons and consolidate a greater role in global affairs by becoming more proactive in Central Asia, though it is unlikely to surpass others’ presence due to its lack of strategy. Japan, from as early as the 1990s, has sought to engage the US in a joint policy towards the region in an effort to curb Chinese presence and diversify energy imports. South Korea, which is an increasing economic power, desires a stronger presence in Central Asia in order to forge closer ties with Russia, whilst consolidating its links with China, Japan and the US. Turkey, the first country to recognise the independence of the Central Asian Republics, has donated 25% of all foreign aid to the region since 1992 ($1bn) and combined Turkish business projects’ value in Central Asia has now reached $50bn. Furthermore, the strength of cultural ties continues to increase through institutions such as the Turkic Council and student exchange programmes. ¶ Each of the aforementioned states are likely to actively seek to deepen and compound their presence in the region. For China, Russia and the US however, the geopolitics of Central Asia is of greater importance. There is too much to lose for any of the powers to afford conflict, economic neglect or widespread social unrest in the region, detrimental to their key strategic aims.

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.

Retrenchment sustains leadership and solves conflict

**Parent and MacDonald 11** (Joseph M. Parent is Assistant Professor of Political Science at the University of Miami. Paul K. MacDonald is Assistant Professor of Political Science at Wellesley College., November/December 2011, "The Wisdom of Retrenchment: America Must Cut Back to Move Forward, www.ihavenet.com/World-United-States-The-Wisdom-of-Retrenchment-America-Must-Cut-Back-to-Move-Forward-Foreign-Affairs.html)

Even if a policy of retrenchment were possible to implement, would it work? The historical record suggests it would. Since 1870, there have been 18 cases in which a great power slipped in the rankings, as measured by its GDP relative to those of other great powers. Fifteen of those declining powers implemented some form of retrenchment. Far from inviting aggression, this policy resulted in those states' being more likely to avoid militarized disputes and to recover their former rank than the three declining great powers that did not adopt retrenchment: France in the 1880s, Germany in the 1930s, and Japan in the 1990s. Those states never recovered their former positions, unlike almost half of the 15 states that did retrench, including, for example, Russia in the 1880s and the United Kingdom in the first decade of the twentieth century. Retrenchment works in several ways. One is by shifting commitments and resources from peripheral to core interests and preserving investments in the most valuable geographic and functional areas. This can help pare back the number of potential flashpoints with emerging adversaries by decreasing the odds of accidental clashes, as well as reducing the incentives of regional powers to respond confrontationally. Whereas primacy forces a state to defend a vast and brittle perimeter, a policy of retrenchment allows it to respond to significant threats at the times and in the places of its choosing. Conflict does not become entirely elective, as threats to core interests still must be met. But for the United States, retrenchment would reduce the overall burden of defense, as well as the danger of becoming bogged down in a marginal morass. It would also encourage U.S. allies to assume more responsibility for collective security. Such burden sharing would be more equitable for U.S. taxpayers, who today shoulder a disproportionate load in securing the world. Every year, according to Christopher Preble of the Cato Institute, they pay an average of $2,065 each in taxes to cover the cost of national defense, compared with $1,000 for Britons, $430 for Germans, and $340 for Japanese. Despite spending far less on defense, the United States' traditional allies have little trouble protecting their vital interests. No state credibly threatens the territorial integrity of either western European countries or Japan, and U.S. allies do not need independent power- projection capabilities to protect their homelands. NATO's intervention in Libya has been flawed in many respects, but it has demonstrated that European member states are capable of conducting complex military operations with the United States playing a secondary role. Going forward, U.S. retrenchment would compel U.S. allies to improve their existing capabilities and bear the costs of their altruistic impulses. The United States and its allies have basically the same goals: democracy, stability, and trade. But the United States is in the awkward position of both being spread too thin around the globe and irritating many states by its presence on, or near, their soil. Delegating some of its responsibilities to allies would permit the U.S. government to focus more on critical objectives, such as ensuring a stable and prosperous economy. Regional partners, who have a greater stake in and knowledge of local challenges, can take on more responsibility. With increased input from others and a less invasive presence, retrenchment would also allow the United States to restore some luster to its leadership.

## sharif

Their 1AC author complicates this aff—the plan only solves political capital if they veto operations. That gives us drones good offense. If not, the adv is a massive link turn

Daniel Markey is senior fellow for India, Pakistan, and South Asia at the Council on Foreign Relations, 13 [“A New Drone Deal For Pakistan,” Foreign Affairs, July 16, http://www.foreignaffairs.com/articles/139584/daniel-markey/a-new-drone-deal-for-pakistan?page=show]

For all its successes, the U.S. drone program in Pakistan is unlikely to survive much longer in its current form. Less than a week after his election on May 11, Pakistan’s new prime minister, Nawaz Sharif, reportedly declared to his cabinet that “the policy of protesting against drone strikes for public consumption, while working behind the scenes to make them happen**,** is not on.” This fall, Pakistan’s national and provincial assemblies will elect a new president, likely a Sharif loyalist, and the prime minister will also select a new army chief. It is safe to say that these men are unlikely to follow their predecessors in offering tacit endorsements of the United States' expansive counterterrorism efforts.

In other words, the United States is going to have to hammer out a new drone deal with Pakistan in the years ahead, one that is sensitive to Pakistan's own concerns and objectives. This will likely mean that Washington will face new constraints in its counterterrorism operations. But managed with care, a new agreement could put the targeted killing campaign against al Qaeda on firmer political footing without entirely eliminating its effectiveness.

Ever since its inception in 2004, the U.S. drone campaign in Pakistan has been stumbling along shaky legal and strategic ground. At various points in time, Washington and Islamabad constructed different fictions to enable the drone campaign. Before launching the first drone strike that killed Taliban leader Nek Muhammad in June 2004, Washington sought personal authorization from then President and army chief Pervez Musharraf. For several years thereafter, the Pakistani army claimed responsibility for all drone strikes, publicly denying (however implausibly) American intervention.

But the program’s remarkable success in killing al Qaeda and Taliban leaders, combined with the otherwise largely unaddressed problem of sanctuaries in Pakistan’s tribal areas, encouraged U.S. officials to expand their list of targets. As the program grew, and especially as Washington killed militants with suspected links to Pakistan’s own military and intelligence services, such as members of the Afghan Taliban–affiliated Haqqani Network, Pakistani officials shed the fiction that the strikes were their own. Islamabad instead bowed to what it perceived as a powerful domestic consensus against the drones and criticized the United States in increasingly shrill terms for violating Pakistan’s territorial sovereignty. Privately, however, Musharraf and his immediate successors -- including the civilian government led by the Pakistan People’s Party (PPP) and the army under General Kayani -- continued to greenlight the drone program.

As the drone strikes mounted, the hypocrisy of the official Pakistani position became ever more difficult to hide. Opposition politician and former cricket star Imran Khan made the criticism of drones a centerpiece of his Tehreek-e-Insaf (PTI) party’s election campaign in 2011 and 2012. And in early 2012, the Pakistani parliament unequivocally denounced the drone strikes and called for them to end. This unmistakable sovereign act called into question oft-repeated U.S. claims that Pakistan actually provides “tacit consent” for the drone campaign.

Pakistan's current and future leaders, starting with Nawaz Sharif, will have little reason to implicate themselves in the drone hypocrisy of their predecessors. Sharif is on sounder political footing than his predecessor, but -- as his top lieutenants are already signaling -- he cannot weather the political storm that is likely to result if the United States appears to blithely disregard his authority. Washington’s failure to shift its policy would lead Islamabad to escalate its diplomatic protests.

Drones prevent Pakistan collapse

Curtis 13 (Lisa Curtis is a senior research fellow at the Heritage Foundation, The National Interest, July 15, 2013, "Pakistan Makes Drones Necessary", http://nationalinterest.org/commentary/pakistan-makes-drones-necessary-8725?page=show)

But until Islamabad cracks down more aggressively on groups attacking U.S. interests in the region and beyond, drones will remain an essential tool for fighting global terrorism. Numbering over three hundred and fifty since 2004, drone strikes in Pakistan have killed more than two dozen Al Qaeda operatives and hundreds of militants targeting U.S. and coalition forces.

President Obama made clear in his May 23 speech at the National Defense University that Washington would continue to use drones in Pakistan’s tribal border areas to support stabilization efforts in neighboring Afghanistan, even as it seeks to increase transparency and tighten targeting of the drone program in the future. Obama also defended the use of drones from a legal and moral standpoint, noting that by preemptively striking at terrorists, many innocent lives had been saved.

The most compelling evidence of the efficacy of the drone program came from Osama bin Laden himself, who shortly before his death contemplated moving Al Qaeda operatives from Pakistan into forested areas of Afghanistan in an attempt to escape the drones’ reach, according to Peter Bergen, renowned author of Manhunt: The Ten-Year Search for Bin Laden from 9/11 to Abbottabad.

How to Reduce the Need for Drones

The continuation of drone strikes signals U.S. frustration with Pakistan’s unwillingness to crack down consistently and comprehensively on groups that find sanctuary in Pakistan’s tribal areas. There continue to be close ties between the Pakistan military and the Taliban-allied Haqqani Network, which attacks U.S. forces in Afghanistan and undermines the overall U.S. and NATO strategy there.

The most recent U.S. drone attack inside Pakistani territory occurred last week against militants from the Haqqani Network located in North Waziristan, along the border with Afghanistan. In early June, drone missiles also targeted a group of fighters in Pakistan that were preparing to cross over into Afghanistan. On both occasions, the Pakistani Foreign Ministry condemned the attacks as counterproductive and said they raised serious questions about human rights.

No doubt a better alternative to the drones would be Pakistani action against terrorist sanctuaries. But Pakistan has stonewalled repeated U.S. requests for operations against the Haqqani network.

In addition to continuing drone strikes as necessary, the U.S. should further condition military aid to Pakistan based on its willingness to crack down on the Haqqani Network. In early June, the House of Representatives approved language in the FY 2014 National Defense Authorization Act that conditions reimbursement of Coalition Support Funds (CSF) pending Pakistani actions against the Haqqani network. Hopefully, the language will be retained in the final bill.

The United States provides CSF funds to reimburse Pakistan for the costs associated with stationing some one hundred thousand Pakistani troops along the border with Afghanistan. Pakistan has received over $10 billion in CSF funding over the last decade. One must question the worth of having troops stationed in this region if they refuse to go after one of the most dangerous terrorist groups.

Details of the relationship between the Pakistan military and the Haqqani Network are laid out in a recent book, Fountainhead of Jihad: The Haqqani Nexus, 1973–2012 by Vahid Brown and Don Rassler. The book highlights that Pakistan is actively assisting the Haqqani network the same way it has over the last twenty years, through training, tactical field advice, financing and material support. The assistance, the authors note, helps to sustain the Haqqani group and enhance its effectiveness on the battlefield.

Drones Help Pakistan

It is no secret that the drone strikes often benefit the Pakistani state. On May 29, for example, a drone missile strike killed the number two leader of the Pakistani Taliban (also referred to as the Tehrik-e-Taliban Pakistan or TTP), Waliur Rehman. The TTP has killed hundreds of Pakistani security forces and civilians in terrorist attacks throughout the country since its formation in 2007. Furthermore, the group conducted a string of suicide attacks and targeted assassinations against Pakistani election workers, candidates, and party activists in the run-up to the May elections, declaring a goal of killing democracy.

Complicating the picture even further is the fact that Pakistan’s support for the Haqqani network indirectly benefits the Pakistani Taliban. The Haqqanis play a pivotal role in the region by simultaneously maintaining ties with Al Qaeda, Pakistani intelligence and anti-Pakistan groups like the TTP. With such a confused and self-defeating Pakistani strategy, Washington has no choice but to rely on the judicious use of drone strikes.

Complicated Relationship

The U.S. will need to keep a close eye on the tribal border areas, where there is a nexus of terrorist groups that threaten not only U.S. interests but also the stability of the Pakistani state. Given that Pakistan is home to more international terrorists than almost any other country and, at the same time, has one of the fastest growing nuclear arsenals, the country will remain of vital strategic interest for Washington for many years to come.

Though the drone issue will continue to be a source of tension in the relationship, it is doubtful that it alone would derail ties. The extent to which the United States will continue to rely on drone strikes ultimately depends on Islamabad’s willingness to develop more decisive and comprehensive counterterrorism policies that include targeting groups like the Haqqani Network.

It’s reverse causal – ending drone strikes causes militants to fill back in to Pakistan and Afghanistan

Qazi 13

Muatasim Qazi is the Assistant Editor of The Baloch Hal, Balochistan’s first online English newspaper, Seattle Globalist, June 3, 2013, "The 6 big myths that turned us against drone strikes", http://www.seattleglobalist.com/2013/06/03/six-myths-about-drone-strikes-in-pakistan/13558

However, there are also **many** Pakistanis who **argue drones are** effective in fighting an enemy that their own military is either incapable or unwilling to confront. Civilian casualties, they contend, are often blown out of proportion by their own media, politicians and government, while the fact that militants killed in these drone strikes have carried out deadly attacks inside Pakistan is played down.

Pakistan’s military says more than 40,000 civilians and soldiers have died in militant violence since 2001.

By comparison, The Bureau of Investigative Journalism estimates that drone strikes have killed roughly 3000 people since 2004, between 500 and 900 of whom were civilians.

While the civilian casualties are much talked about inside Pakistan, the narrative that drones are effective gets little attention in the mainstream debate. The drones have significantly dismantled the networks of al-Qaeda and the Taliban in Pakistan and Afghanistan, forcing the unseen enemy to flee to new safe havens like Yemen and Somalia.

An abandonment of the US drones program would be a major setback for **not only** the people in the tribal regions of Pakistan and across the border in Afghanistan, but also for the rest of Pakistan and the world at large, because it would provide the terrorist groups an opportunity to regroup and plan future attacks.

Outside Pakistan, opposition to drones has increased in recent years. That’s because very little is known about what’s actually happening on the ground, and because the wider picture inside Pakistan is ignored.

No spillover between Sharif credibility with tribal regions and Sharif credibility with India on economic issues. Seriously?! Their Sharif key card just says Sharif’s presidency marks a new path for economic relations…no capital key evidence!

And losing capital doesn’t impact his economic agenda—he’s exclusively focusing on the economy in order to boost his capital!

Reza Jan, AEI, 7/31/13, The future of Pakistan: What to expect from Nawaz Sharif's new government, www.aei.org/papers/foreign-and-defense-policy/regional/india-pakistan-afghanistan/the-future-of-pakistan-what-to-expect-from-nawaz-sharifs-new-government/

Nawaz Sharif's political agenda can be broken down into three overarching sections: the economy, encompassing the country's energy crisis, macroeconomic stability, and foreign energy imports; foreign relations, encompassing rapprochement with India and engaging with the U.S. and Afghanistan; and domestic security, encompassing Pakistan's Taliban insurgency and civil-military relations.

The PML-N government has so far focused, and continues to focus, primarily on energy and economic issues, almost to the exclusion of all others. It sees progress on this front as the source of its political legitimacy and the primary yardstick for judging its own success.

No Pakistan-India economic engagement

***--note—2nc impact: drones key because terrorism is a larger internal link to indo coop collapse!***

Wilson John et al, Observer Research Foundation vice president, 13, Nawaz Sharif and India, https://www.google.com/search?q=ORF+Aryaman+Bhatnagarandoq=ORF+Aryaman+Bhatnagarandaqs=chrome..69i57.2189j0andsourceid=chromeandie=UTF-8

Two issues, however, have the potential of crippling the economic initiatives, and thus a deeper India-Pakistan relationship. One is the issue of terrorism. The second is Afghanistan, specifically Pakistan's role and its relationship with the Taliban and its allies.

Terrorism has by far been the most difficult problem to deal with. There is no uncertainty about the presence and activities of several terrorist groups inimical to India and its interests in Pakistan. Many of them enjoy overt and covert support of the Pakistan Army. Terrorist attacks in the recent past have been traced to these groups and their patrons in Rawalpindi. It is also indisputable that Pakistan has been more than lax in preventing these groups from carrying out terrorist attacks and in prosecuting them despite credible evidence. The possibility of these groups targeting India in future cannot be discounted either.

For India, the terrorist threat from groups based in Pakistan is serious and cannot be overlooked. It is also more or less clear that the Pakistan Army is unlikely to give up patronising these groups given their utility in different theatres, including India. The fact that Lashkar-e-Tayyeba (LeT) teams have been deployed in Mohamand Agency bordering Afghanistan's Kunar province to oust Tehrik-e- Taliban Pakistan (TTP) in the last week of June this year underlines the army's reliance on these groups to supplement military campaigns. The civilian support for such groups is fairly deep and widespread. The Punjab government, led by Prime Minister Sharif's Pakistan Muslim League-N (PMLN), has been doling out grants worth several million to educations institutions run by LeT's charity front, Jamat-ud Dawa (JuD). The PMLN government in Islamabad may not openly come out in support of these groups but will remain shy of taking hard decisions. Taking on anti-India terrorist groups is therefore not high on the priority list of the Sharif government.

Afghanistan undermines coop

Wilson John et al, Observer Research Foundation vice president, 13, Nawaz Sharif and India, https://www.google.com/search?q=ORF+Aryaman+Bhatnagarandoq=ORF+Aryaman+Bhatnagarandaqs=chrome..69i57.2189j0andsourceid=chromeandie=UTF-8

Both India and Pakistan have considerable stakes in the stability of Afghanistan. They also harbour deep suspicions about each other's role and intentions. There is clearly a greater need to talk to each other on these issues. It will not be difficult to convince Prime Minister Sharif that a stable Afghanistan is critical to Pakistan's stability more than perhaps India's.

India is committed to the sovereignty and integrity of Afghanistan and supports the political process. Its economic engagement in Afghanistan is a key enabler of this objective. India is aware of Pakistan's anxiety about the Durand Line. Much of the suspicion about India's role in Afghanistan springs from this anxiety. India is willing to work with Pakistan in easing some of these apprehensions, specifically about the possibility of conflict with Afghanistan over Durand Line and even the greater fear of a Pashtun consolidation. In fact, India's engagement with Afghanistan will benefit from an improved relationship with Pakistan in many ways.

## pak stability

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.

## at india

US-Indian relations low but will never collapse

**Padukone 12** (Neil Padukone is the Felow for geopolitics at the Takshashila Institution, 6/19/2012, "Natural Allies?", pragati.nationalinterest.in/2012/06/natural-allies/)

In the late 1990s, the United States and India embarked on a partnership based largely on three strategic issues: markets, counter-terrorism, and balancing China. With the opening of India’s economy in 1991, the United States saw India’s billion-strong population as a massive market for its businesses. In the wake of 9/11, Washington came to see India’s travails against Islamist militants in Kashmir and Afghanistan through the lens of its War on Terror and increased counter-terrorism cooperation with New Delhi. And as India’s and China’s strategic spaces began to overlap, managing China’s rise became a common concern for both New Delhi and Washington. With that in mind, the United States and India reversed decades of enmity and, through the 2006 nuclear deal, embarked upon a symbolic commitment to what heads of state of both countries have called a “natural alliance.” Yet with all the fanfare- particularly after U.S. President Barack Obama voiced his support for a permanent Indian seat on the UN Security Council in his 2010 Lok Sabha speech- bilateral ties have recently been marked by considerable drift: India has not fallen in line on the issue of Iran, Washington is only slowly coming around on Pakistani militancy, the countries’ UN voting records do not mesh, and trade disagreements abound. Questions have been raised over why U.S.-India relations have cooled, or whether they were over hyped in the first place. The U.S. Department of Defense’s “strategic pivot” toward Asia is one way to shore up relations and realign the Indo-U.S. partnership. India’s geostrategic location at the centre of the Indian Ocean- along with its naval expansion toward the southern Indian Ocean and its Port Blair naval base at the Andaman Islands- enable New Delhi to manage China’s presence in the region. Indeed, India and America’s navies have been more coordinated than any other bureaucracy since 2000. But the implications of this shared Beijing-centric orientation will only come about in the medium-term. One dimension of these ties, the sale of defence technologies, is another place where India has not yet delivered: the recent Medium Multi-Role Combat Aircraft (MMRCA) competition failed to award contracts to American companies. And in the middle of a global recession in which all countries are hunkering down, and domestic inflation and unemployment- not to mention concerns over doing business in India, such as retroactive taxation and tax avoidance measures- have grown, economic reforms that would further open India’s markets have slowed. U.S. Secretary of State Hillary Clinton’s recent visit to Kolkata was largely an effort to encourage India to increase the speed of its market liberalisation, particularly in the retail sector. This may be a prospect for the future, but is doubtful today given India’s economic slowdown and the attendant drop in employment. Yet perhaps the main reason for this strategic drift is that America’s key concern in South Asia these days is Afghanistan. President Obama delivered on his campaign promise to refocus efforts on the war in that country, and from 2009, his administration’s “AfPak” strategy took a regional perspective that originally sought to bring India into the equation. The thinking behind this, as Amitai Etzioni writes, is that “for Pakistanis, conflict (with India) poses an ominous existential challenge that drives their behaviour on all things,” including “their approach to the West and the war in Afghanistan… If the India-Pakistan confrontation could be settled, chances for progress on other fronts would be greatly enhanced.” The implication was that Washington ought to hyphenate India and Pakistan, to see the two as part of the same regional tussle, and try to settle the Kashmir dispute in order to make progress in Afghanistan. This was something New Delhi vehemently opposed and in fact, it sought de-hyphenation from Pakistan – engagement with New Delhi and Islamabad on separate and unconnected tracks. So when the office of the late US Special Adviser on Pakistan and Afghanistan Richard Holbrooke sought to include India and Kashmir in its purview, New Delhi successfully lobbied against it. This effort served one of India’s aims, insofar as it keeps Kashmir out of America’s area of direct intervention. Yet it also takes India, its assets, and its clout out of the broader Afghan resolution. Among these assets is the Indian-constructed Chabahar Road that connects Iran’s eastern Chabahar Port on the Gulf of Oman to western Afghanistan. The road ends Pakistan’s monopoly on seaborne trade to Afghanistan, which has long allowed Islamabad’s pernicious dominance of Kabul’s economic and political life. In light of America’s confrontation with Iran and efforts to sanction the latter’s energy sector, however, Washington opposes India’s use of Chabahar, particularly to import Iranian oil and natural gas. Indeed another goal of Secretary Clinton’s visit was to try to shore up India’s support for sanctions against Iran- to which end India is reducing its dependence on Iranian energy as it awaits an exemption on sanctions from the US State Department. But when New Delhi recently used its Chabahar road to send 100,000 tons of wheat to Kabul, its full potential vis-à-vis Afghanistan became evident. And this food aid was on top of India’s additional commitments to Afghanistan: constructing the Zaranj-Delaram highway in western Afghanistan that connects Chabahar to the Afghan ring road, the development of the Ayni Air base in Tajikistan (originally designed to treat wounded Afghan soldiers), building Afghanistan’s parliament building, exploring the Hajigak iron mine, and even commitments to train the Afghan National Police and Army- all of which amount to pledges of over $1 billion since 2001. Washington has been wary of encouraging India’s presence in Afghanistan citing Islamabad’s fear of encirclement. But, even without American attention, a refutation of Pakistan’s “India Threat” narrative is already underway. In order to remain focused on strategic horizons beyond South Asia, India is reorienting its defence apparatus away from Pakistan and towards China and the southern Indian Ocean; even the Ayni Base and Chabahar Road can be seen as elements of this strategic shift beyond the subcontinent. Together with Pakistan’s focus on the Durand Line and events within its own borders, political breathing space between Islamabad and New Delhi has opened up. India-Pakistan talks have already produced a number of important breakthroughs that portend better bilateral days to come: the granting of Most-Favoured Nation status, enhanced trade measures, as well as discussions on the specific parameters of a Kashmir peace based on economic integration. Specifically regarding the Indo-Pak dynamic in Afghanistan, things are less zero-sum than they appear. Important as the Chabahar route is, the combination of road, sea, and even rail links still comes with massive transport costs for India-Afghanistan trade. As S Verma, chairman of Steel Authority of India and the head of a consortium of Indian industries engaged in Afghanistan’s Hajigak iron mine, put it, “over the longer term,” transporting Afghan minerals over Pakistani territory “will be a productive investment. Not just for us, but others in the region including Pakistan. There are license fees, logistics, and so forth.” Meanwhile, Kaustav Chakrabarti of the Observer Research Foundation has suggested “deploying joint Indo-Pak nation building teams” in Afghanistan that include advisors, military trainers, bureaucrats, developments experts, medical crews and NGOs. These teams would “provide additional resources, bridge political polarities, foster cooperation between India and Pakistan and devise means to verify each other’s role, and ultimately, present a long-term mechanism,” guaranteed by India and Pakistan’s geographic proximity, “to ensure Afghanistan’s neutrality.” He cites as a precedent the collaboration between Indian and Pakistani armed forces in “UN peacekeeping missions in hot spots like Somalia.” Full realisation of any Indo-Pak promise will require more space, and time, between the two countries. The interim period, meanwhile, may indeed take a cooling period between the United States and India, who are unlikely to become allies in the fullest sense due to differing tactical approaches. But the strategic fundamentals of the Indo-American rapport- balancing China, expanding trade, and stabilising South Asia- remain intact.

No Indian water wars

Javed 10 (Ashraf Javed, The Nation, 2/11/2010. “No Pak-India water war: Ranganathan,” http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/11-Feb-2010/No-PakIndia-water-war-Ranganathan)

Indus Water Commissioner of India G Ranganathan on Wednesday ruled out possibility of war between India and Pakistan over water dispute and said that both the South Asian powers believed in resolving all the water related issues in accordance with Indus Water Treaty. ‘This (war) impression is incorrect and is based on negative propaganda by some elements’, Nathan accompanied by his Pakistani counterpart Syed Jamaat Ali Shah told reporters here at Allama Iqbal International Airport before leaving for New Delhi on the completion of his five-day ‘general tour inspection’ of four irrigation sites in Pakistan. Earlier, Pakistan and India signed a memorandum for inspection of barrages on rivers in an attempt to end the burning issue on water sharing between the two nuclear-armed neighbours. The memo was signed after two days of talks between the Indus Commissioners of the two countries here. Talking to reporters, India’s Indus Water Commissioner, Ranganathan said that the two countries were facing water scarcity due to lesser rainfall in the region. ‘India had been affected as much as Pakistan due to water shortage in the Indus’, he said in a bid to solace Islamabad’s concerns that the Indian decision to build dams on rivers has led to water shortage in Pakistan. He further said that water scarcity had been common between Pakistan and India which could not lead the two countries to war, adding, that a delegation of Pakistani water officials would visit India in March to discuss the issues related to river water. The Indus Water Treaty of 1960, which covers the sharing of river waters, was ‘fully functional’ and the Indian team was here to remove Pakistan’s concerns over water issues, he added.

# 2NC

## 2nc do both

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

Markey’s concludes the CP’s pre-authorization program is good —zero necessity for Congressional involvement – proves cp by itself is good

Daniel Markey is senior fellow for India, Pakistan, and South Asia at the Council on Foreign Relations, 13 [“A New Drone Deal For Pakistan,” Foreign Affairs, July 16, http://www.foreignaffairs.com/articles/139584/daniel-markey/a-new-drone-deal-for-pakistan?page=show]

**A final option -- and the only realistic compromise at present** -- would be for Washington to **seek** Islamabad’s pre-authorization for specific targets and zones for strikes. The United States would retain full operational control over drone missions, and unlike the earliest stage in the drone program, when Musharraf’s explicit approval was required to kill Nek Muhammad, this process could provide blanket authority for a much longer (mutually agreed, if not publicly disclosed) target list. In return, Pakistani leaders would acknowledge publicly the terms of the new arrangement. Accompanying this preauthorization regime, Washington and Islamabad could establish a mechanism for reviewing claims of civilian losses and providing appropriate compensation, as the United States has done in Afghanistan and Iraq. In bringing the program out of the shadows, U.S. operational authority for the drones would almost certainly have to shift from the CIA to the Pentagon, as the Obama administration has already said it plans to do in other countries.

Admittedly, this final compromise option would be painful for both Islamabad and Washington. Pakistani leaders would finally have to come clean to their people about authorizing drone strikes. That would eliminate even the thin veneer of deniability that past leaders have maintained to protect themselves from political fallout. It would also place Sharif’s party firmly on the blacklists of the Pakistani Taliban and other targeted groups, which to date have enjoyed slightly more ambiguous relationships.

risk of delay and circumvention is higher with the plan – permutation also uniquely triggers Iran and politics

Metzger, professor of law at Columbia, 2009

(Gillian E., THE INTERDEPENDENT RELATIONSHIP BETWEEN INTERNAL AND EXTERNAL SEPARATION OF POWERS, 59 Emory L.J. 423, Lexis)

Several bases exist for thinking that internal separation of powers mechanisms may have a comparative advantage. First, internal mechanisms [\*440] operate ex ante, at the time when the Executive Branch is formulating and implementing policy, rather than ex post. As a result, they avoid the delay in application that can hamper both judicial and congressional oversight. n76 Second, internal mechanisms often operate continuously, rather than being limited to issues that generate congressional attention or arise in the form of a justiciable challenge. n77 Third, internal mechanisms operate not just at the points at which policy proposals originate and are implemented but also at higher managerial levels, thus addressing policy and administration in both a granular and systemic fashion. In addition, policy recommendations generated through internal checks may face less resistance than those offered externally because the latter frequently arise after executive officials have already decided upon a policy course and are more likely to take an adversarial form. n78 Internal mechanisms may also gain credibility with Executive Branch officials to the extent they are perceived as contributing to more fully informed and expertise-based decisionmaking. n79

Err neg—their evidence is media hype

Nathan Alexander Sales, Assistant Professor of Law, George Mason University School of Law, 8/29/2012, Self-Restraint and National Security, http://jnslp.com/2012/08/29/self-restraint-and-national-security/

If the only thing we knew about national security was what we learned from Hollywood, we would come away with the impression that the Pentagon and CIA were populated entirely by rogue agents who routinely, if not gleefully, flout the legal restrictions that govern them. Think of Jack Bauer goading a captured terrorist into talking by staging a mock execution of his young son, or General Jack Ripper enthusiastically ordering a nuclear strike on the Soviet Union. That crude caricature is almost the exact opposite of reality. Military and intelligence officials are often scrupulously careful when deciding how to deploy the immense powers at their fingertips. They **frequently adopt constraints on their ability to carry out certain national security operations**, **restrictions that go farther than what is required** by the applicable principles of domestic or international law. Recent history offers plenty of examples. Counterterrorism interrogators aren’t getting as close as possible to the lines drawn by the Convention Against Torture, the federal torture statute, and the Detainee Treatment Act; they are restricted to the relatively benign techniques authorized in the Army Field Manual. In the 1980s and 1990s, officials were reluctant to order targeted killings that they believed were perfectly consistent with domestic and international prohibitions on assassination; they either rejected them outright (in the case of Osama bin Laden) or modified them to camouflage their true purpose (in the case of Mohammar Qadaffi). Military officers aren’t itching to order attacks that are even arguably permissible under the law of war; they sometimes forego lawful strikes that members of the JAG corps regard as problematic for moral, economic, and other non-legal reasons. Justice Department lawyers didn’t aggressively promote information sharing under the Foreign Intelligence Surveillance Act; they built a wall that segregated cops from spies and set themselves up as the department’s information sharing gatekeepers. Why? Public choice theory can help answer that question. As developed in this article, there are at least two explanations that can account for the government’s tendency to tie its own hands in national security operations: cost-benefit asymmetry and empire building. Officials in military and intelligence agencies tend to be cautious for a straightforward reason. It is in their interest to be cautious. The expected costs of national security operations are often greater than the expected benefits. The best case scenario for a cop, spy, or soldier is that he gets a pat on the back; the worst is that he goes to jail. **That gap naturally predisposes officials to play it safe,** and **senior government policymakers** (and therefore their lawyers) **are likely to be** especially cautious. It shouldn’t come as much of a surprise, then, when attorneys in the intelligence community or the Pentagon veto an operation – even a concededly lawful operation – that has the potential to inspire demoralizing propaganda campaigns by adversaries, expose officials to criminal prosecutions, or worse. The lawyers are doing what all lawyers do – trying to keep their clients out of trouble. You may be convinced that it’s legal to bomb a particular convoy or share a particular intelligence report with your buddy at the FBI. But there’s no guarantee that Belgian war crimes prosecutors or the FISA Court will see things the same way. Why take the chance? Of course, lawyers are not pristinely disinterested altruists. They, too, are rationally self interested actors, and this insight suggests a second possible explanation for self-restraint. Vetoes can help attorneys build their bureaucratic empires. A Justice Department lawyer who wants to enhance his pull and that of his office knows that he can do so by raising doubts about the wisdom of the CIA’s proposal to gun down Osama bin Laden, or by preventing prosecutors in the Southern District of New York from getting too cozy with intelligence analysts at FBI headquarters. **Nobody respects a yes man**; the person they respect is the one who can keep them from doing what they want. Vetoes thus can magnify two of the things that turf warriors care about the most – their influence over senior policymakers and their autonomy to pursue their own agendas. The lawyers tend to say no because it’s in their interest to say no; doing so advances their personal and institutional welfare.

## 2nc effective constraint

Political constraints solve TK

Gregory McNeal, Pepperdine University Professor, 3/15/13, Presidential Politics, International Affairs and (a bit on) Pakistani Sovereignty, www.lawfareblog.com/2013/03/presidential-politics-international-affairs-and-a-bit-on-pakistani-sovereignty/

Despite this lack of interest, some evidence exists to suggest that presidents do care about how their activities may be viewed by the public. As Baker has noted, during the bombing campaign in Kosovo, the possibility of civilian casualties from any given airstrike was seen as both a legal and political constraint. Due to this fact, some individual target decisions were deemed to have strategic policy implications that only the president could resolve (and we see similar presidential approvals for certain strikes in current operations). Moreover, **even in the absence of effective judicial constraints, and even without evidence of public concern** over matters of foreign policy, **the president is still constrained by politics and public opinion**. As Posner and Vermeule state, the president needs “both popularity, in order to obtain political support for his policies, and credibility, in order to persuade others that his factual and causal assertions are true and his intentions are benevolent.” As was described in prior posts, the President is oftentimes directly involved in targeting decisions. This is due in part to globalized communications and also because as precision has increased, so too has the expectation (unrealistic as it is) that civilian casualties will be low or nonexistent. Given these expectations, presidents have oftentimes felt compelled to involve themselves to a greater degree in targeting decisions. This involvement brings with it enhanced political accountability. It allows for greater public awareness of kinetic operations and creates direct responsibility for results tied to the commander in chief’s immediate involvement in the decision-making process. Successes and failures are imputed (or at least can be imputed) directly to the president. Presidential decision-making brings to light public recognition that the military and intelligence community are implementing rather than making policy. Moreover, when the president chooses to nominate people to assist him in making targeted killing decisions, the nomination process provides a mechanism of political accountability over the executive branch. This was aptly demonstrated by President Obama’s nomination of John Brennan to head the CIA. Given Brennan’s outsized role as an adviser to the president in the supervision of targeted killings, his nomination provided an opportunity to hold the president politically accountable by allowing senators to openly question him about the targeted killing process, and by allowing interest groups and other commentators to suggest questions that should be asked of him. Of course, secrecy can stifle some aspects of political accountability, but secrecy also has costs. Presidents require public support for their actions, and if the public does not trust him, that lack of trust may undermine other items on the administration’s agenda. INTERNATIONAL POLITICAL CONSTRAINTS Other political constraints from outside the U.S. may also impose costs on the conduct of targeted killings and those costs may serve as a form of accountability. For example, in current operations, targeted killings that affect foreign governments (as in domestic public opinion in Pakistan) or alliances (as in the case of UK support to targeting) all have associated with them higher political costs. Other **international political constraints can impose accountability on the targeting process**. For example, if Pakistan wanted to credibly protest the U.S. conduct of targeted killings, they could do so through formal mechanisms such as complaining at the UN General Assembly, petitioning the UN Security Council to have the matter of strikes in their country added to the Security Council’s agenda, or they could lodge a formal complaint with the UN Human Rights Committee. (UPDATE: In Emmerson’s letter he notes that the Pakistani government says they have at least made “public statements” regarding their lack of consent and their calls for “an immediate end to the use of drones by any other State on the territory of Pakistan.”). Pakistan could also expel U.S. personnel from their country, reject U.S. foreign aid, cut off diplomatic relations, and even threaten to shoot down U.S. aircraft. Despite apoplectic headlines, ledes and press releases, the fact that Pakistan has not pursued these means of international political accountability says a lot about the credibility of the sovereignty complaint. Another international political mechanism can be seen in the form of overflight rights. As Zenko notes, sovereign states can constrain U.S. intelligence and military activities; “[t]hough not sexy and little reported, deploying CIA drones or special operations forces requires constant behind-the-scenes diplomacy: with very rare exceptions—like the Bin Laden raid—the U.S. military follows the rules of the world’s other 194 sovereign, independent states.” Other international political checks can be seen in the conduct of military operations. For example, during the 1991 Gulf War, the U.S. lawfully targeted Iraqi troops as they fled on what became known as the “highway of death.” The images of destruction broadcast on the news caused a rift in the coalition. Rather than lose coalition partners, the U.S. chose to stop engaging fleeing Iraqi troops, even though those troops were lawful targets. The U.S. government has similarly noted the importance of international public opinion, even highlighting its importance in its own military manuals. For example, the Army’s Civilian Casualty Mitigation manual states civilian casualties may “lead to ill will among the host-nation population and political pressure that can limit freedom of action of military forces. If Army units fail to protect civilians, for whatever reason, the legitimacy of U.S. operations is likely to be questioned by the host nation and other partners.”(See more here). Critics of targeted killings tend to favor judicial mechanisms of accountability, believing that such externally imposed measures are the only effective mechanism of control over executive action. However, judicial accountability is not the only mechanism of control over targeted killings — **political accountability can**, under the right circumstances, **serve as an effective mechanism of control**. In the paper I also discuss bureaucratic and professional accountability, two of the less visible mechanisms of control in the targeted killing process. My next post will discuss reform recommendations that can enhance accountability for targeted killings.

## 2nc at rollback

The neg gets durable fiat—it’s reciprocal with the aff

And executive orders have the force of law:

Oxford Dictionary of English 2010

(Oxford Reference, Georgetown Library)

executive order

▶ noun US (Law) a rule or order issued by the President to an executive branch of the government and having the force of law.

Executive orders are permanent

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

The trajectory of the evolution of the executive power in the United States, as seen through the prism of the growing edifice of executive orders have become increasingly formal and permanent. The evolution of executive power in the United States has shifted executive orders from mere legislative interpretation to ancillary legislation. **Executive orders continue to influence subsequent presidents**. The elaboration of executive order promulgation, as an autopoietic process was necessary to the very existence of presidential power. That is, the mechanisms for formalizing executive orders have always existed in the executive power in a government whose legitimacy lives in written pronouncements treated as delicate, sacred, and worth protecting at all cost. **Part of this formalization is** a consequence of **the reverence for precedent**. Thus, **prior presidents influence future presidents**, less because future presidents wish to mimic their predecessors, but more **because future presidents act within an edifice their predecessors have already erected**. Thus, the growth and elaboration of an ever more robust structure of executive orders resembles an autopoietic process. n561

## 2nc at lx to War Powers

The squo and CP lock in a middle-ground approach to war powers that solves the case and avoids the disad

Marty Lederman, Professor at Georgetown Law School and former Deputy Assistant Attorney General in the Department of Justice's Office of Legal Counsel from 2009 to 2010, and an Attorney Advisor in OLC from 1994-2002, 9/1/13, Syria Insta-Symposium: Marty Lederman Part I–The Constitution, the Charter, and Their Intersection, opiniojuris.org/2013/09/01/syria-insta-symposium-marty-lederman-part-constitution-charter-intersection/

According to Peter, President Obama’s decision to seek congressional authorization for the use of force is a “watershed”—indeed, a “surrender” of constitutional authority—because “[a]t no point in the last half century at least has a president requested advance congressional authorization for anything less than the full-scale use of force.” Peter thus agrees with David Rothkopf’s accusation that “Obama has reversed decades of precedent regarding the nature of presidential war powers.” **I don’t think that’s a fair characterization**. Or, to be more specific, although Peter is correct that the President’s turn to Congress is in one respect without recent precedent, a unilateral use of force by the President in Syria also would have been unprecedented in important respects, and probably more corrosive to the modern balance of war powers between the political branches. To understand why this is so, some background is in order. What follows is a very simplified account of a very complex dynamic: In the past two generations, there have been three principal schools of thought on the question of the President’s power to initiate the use of force unilaterally, i.e., without congressional authorization: a. The traditional view, perhaps best articulated in Chapter One of John Hart Ely’s War and Responsibility, is that except in a small category of cases where the President does not have time to wait for Congress before acting to interdict an attack on the United States, the President must always obtain ex ante congressional authorization, for any use of military force abroad. That view has numerous adherents, and a rich historical pedigree. But whatever its merits, it has not carried the day for many decades in terms of U.S. practice. b. At the other extreme is the view articulated at pages 7-9 of the October 2003 OLC opinion on war in Iraq, signed by Jay Bybee (which was based upon earlier memos written by his Deputy, John Yoo). The Bybee/Yoo position is that there are virtually no limits whatsoever: The President can take the Nation into full-fledged, extended war without congressional approval, as President Truman did in Korea, as long as he does so in order to advance the “national security interests of the United States.” With the possible exception of Korea itself, this theory has never reflected U.S. practice. (Indeed, even before that OLC opinion was issued, President Bush sought and obtained congressional authorization for the war in Iraq.) Notably, it was even rejected by William Rehnquist when he was head of OLC in 1970 (see the opinion beginning at page 321 here). c. Between these two categorical views is what I like to call the Clinton/Obama “third way”—a theory that has in effect governed, or at least described, U.S. practice for the past several decades. It is best articulated in Walter Dellinger’s OLC opinions on Haiti and Bosnia, and in Caroline Krass’s 2011 OLC opinion on Libya. The gist of this middle-ground view (this is my characterization of it) is that the President can act unilaterally if two conditions are met: (i) the use of force must serve significant national interests that have historically supported such unilateral actions—of which self-defense and protection of U.S. nationals have been the most commonly invoked; and (ii) the operation cannot be anticipated to be “sufficiently extensive in ‘nature, scope, and duration’ to constitute a ‘war’ requiring prior specific congressional approval under the Declaration of War Clause,” a standard that generally will be satisfied “only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period” (quoting from the Libya opinion). Largely for reasons explained by my colleague and Dean, Bill Treanor, I am partial to this “third way,” at least in contrast to the two more categorical views described above. (I do not subscribe to every detail of the Dellinger and Krass opinions—in particular, I’m wary of resort to the interest in “regional stability,” which has never been used as a stand-alone justification for unilateral executive action—but I concur in the broad outlines sketched out above.) Regardless of whether Dean Treanor and I—and Presidents Clinton and Obama—are right or wrong about that, however, **what’s important for present purposes is that U.S. practice after World War II** (with the possible exception of Korea and Kosovo) **reflects, and is consistent with, this “third way” view:** When a prolonged campaign has been anticipated, with great risk to U.S. blood and treasure, congressional authorization has been necessary—and has, in fact been secured (think Vietnam, both Gulf Wars, and the conflict with al Qaeda). Otherwise, the President has considered himself free to act unilaterally, in support of important interests that have historically justified such unilateral action—subject, however, to any statutory limitations, including the time limits imposed by the War Powers Resolution. See, e.g., Libya (twice, 1986 and 2011), Panama (1989), Somalia (1992), Haiti (twice, 1994 and 2004), and Bosnia (1995). Assuming this “third way” view is correct—or, in any event, that it establishes the relevant historical baseline against which to measure the case of Syria—Peter Spiro makes a valid point about the second of the two criteria. As he puts it, “[a]t no point in the last half century . . . has a president requested advance congressional authorization for anything less than the full-scale use of force.” But that does not mean that the President’s turn to Congress yesterday is a “watershed,” for Peter overlooks the important first condition. All of the examples of unilateral presidential use of force since 1986 that he implicitly invokes (with the possible exception of Kosovo, discussed below) have been in the service of significant national interests that have historically supported such unilateral actions—such as self-defense, protection of U.S. nationals, and/or support of U.N. peacekeeping or other Security Council-approved endeavors and mandates (e.g., Bosnia and Libya). **The Syria operation**, however, **would have had no significant precedent in unilateral executive practice**; it would not have been been supported by one of those historically sufficient national interests. That’s not to say that that operation would not be in the service of a very important national interest. For almost a century the U.S. has worked assiduously, with many other nations, to eliminate the scourge of chemical weapons. If Syria’s use of such weapons were to remain unaddressed, that might seriously compromise the international community’s hard-won success in establishing the norm that such weapons are categorically forbidden, and should not even be contemplated as instruments of war. As Max Fisher has written, “it’s about every war that comes after, about what kind of warfare the world is willing to allow, about preserving the small but crucial gains we’ve made over the last century in constraining warfare in its most terrible forms.” Preventing that degradation of the strong international norm against use of chemical weapons is, indeed, an important national (and international) interest of the first order. (To be clear: I am not remotely qualified to opine on whether and to what extent the contemplated action would advance that interest—my point is only that the interest is undoubtedly an important one.) And perhaps that should be enough to justify discrete, unilateral presidential action short of “war in the constitutional sense.” But if so, it would nevertheless be an unprecedented basis for unilateral executive action, and it would open up a whole new category of uses of force that Presidents might order without congressional approval, even where such actions could have profound, longstanding consequences: Most obviously, think, for example, of possible strikes on Iran in order to degrade its nuclear capabilities. Is Peter so sure that that’s the sort of thing that a President should be able to do without obtaining congressional approval? At a minimum, it’s a profound, and heretofore unresolved, question, one that any President should be wary of raising. But there’s yet another reason why unilateral action in Syria would have been especially troubling—a reason that hasn’t received the attention it warrants in recent days. As I discuss in my next post, I agree with the majority of OJ commentators that the Syrian operation would violate Article 2(4) of the U.N. Charter. Indeed, it’s not really a close question. But this is not merely a point about international law. The Charter is a treaty of the United States. It is therefore the “supreme Law” of the land under Article VI of the Constitution, and the President has a constitutional obligation (under Article II) to take care that it is faithfully executed. Unless and until Congress passes a “later in time” statute, under what authority can the President deliberately put the U.S. in breach of the Charter? That is to say: Whatever one’s views might be on the scope of the President’s authority to unilaterally use force abroad—whether you subscribe to the traditional view, the Bybee/Yoo view, or the Clinton/Obama “third way” (or any variant in between)—what is the possible justification for a unilateral presidential decision to violate a treaty that is binding as a matter of domestic law? This is, I think, the most troubling thing about the 1999 Kosovo precedent. The Clinton Administration virtually conceded that the operation was in breach of the Charter. Of course, as a matter of domestic law, Congress can pass a statute authorizing violation of the Nation’s treaty obligation. And OLC concluded that Congress effectively authorized the Kosovo operation eight weeks after it began. But why did President Clinton have the authority, without congressional authorization, to order the operation, and to breach Article 2(4), during those first eight weeks? The notion that the President may unilaterally cause the U.S. to breach a treaty raises deep and unresolved questions of constitutional law: Just as Presidents Obama and Clinton were correct to assume that their unilateral uses of force (in Kosovo and Libya, respectively) were subject to the constraints of the War Powers Resolution, so, too, should the President act within the constraints of binding treaty obligations. The Clinton Administration never did address this problem in connection with Kosovo. (I should note that in 1989, OLC reasoned that because Article 2(4) of the Charter is non-self-executing, in the sense that it does not establish a rule for court adjudication, it is “not legally binding on the political branches,” and thus “as a matter of domestic law, the Executive has the power to authorize actions inconsistent with Article 2(4) of the U.N. Charter.” 13 Op. O.L.C. 163, 179. In my view, this understanding of the effect of a “non-self-executing” treaty is importantly mistaken—but that’s a much broader topic, for another day. I am not aware of any indication that the Clinton Administration adopted this position.) For these reasons, I think that President Obama’s decision to ask Congress for authorization for the use of force in Syria is to be commended, and welcomed. **Moreover**, I agree with Jack Goldsmith that this decision will not result in any “surrender” of existing executive authority: When in the future the two “third way” criteria for unilateral action articulated in the Haiti, Bosnia and Libya OLC opinions are satisfied, and where the use of force does not violate the Charter, Presidents will certainly continue to assert the power to act unilaterally, subject to statutory and international law constraints. But if and when a President wishes to act for a reason that has not previously been the basis for unilateral action (such as to degrade another nation’s ability to use certain weapons), and/or in a manner that violates a U.S. treaty obligation, past practice will support obtaining congressional authorization, even as the question of the President’s unilateral authority in such circumstances remains untested and unresolved.

Only Congressional moves to reclaim war power authority triggers the war power and politics disad

William Howell, Sydney Stein professor in American politics at the University of Chicago, 9/3/13, All Syria Policy Is Local, www.foreignpolicy.com/articles/2013/09/03/all\_syria\_policy\_is\_local\_obama\_congress?page=full

From a political standpoint, seeking congressional approval for a limited military strike against the Syrian regime, as President Barack Obama on Saturday announced he would do, made lots of sense. And let's be clear, **this call has everything to do with political considerations**, and close to nothing to do with a newfound commitment to constitutional fidelity. The first reason is eminently local. Obama has proved perfectly willing to exercise military force without an express authorization, as he did in Libya -just as he has expanded and drawn down military forces in Afghanistan, withdrawn from Iraq, significantly expanded the use of drone strikes, and waged a largely clandestine war on terrorism with little congressional involvement. The totality of Obama's record, which future presidents may selectively cite as precedent, hardly aligns with a plain reading of the war powers described in the first two articles of the constitution. Obama isn't new in this regard. Not since World War II has Congress declared a formal war. And since at least the Korean War, which President Harry Truman conveniently called a "police action," commanders-in-chief have waged all sorts of wars -small and large -without Congress's prior approval. Contemporary debates about Congress's constitutional obligations on matters involving war have lost a good deal of their luster. Constitutional law professors continue to rail against the gross imbalances of power that characterize our politics, and members of whichever party happens to be in opposition can be counted on to decry the abuses of war powers propagated by the president. **But these criticisms** -no matter their interpretative validity -**rarely gain serious political traction**. Too often they appear as arguments of convenience, duly cited in the lead-up to war, but serving primarily as footnotes rather than banner headlines in the larger case against military action. **Obama's recent decision to seek congressional approval is not going to upend a half-century of practice that has shifted the grounds of military decision-making decisively in the president's favor**, any more than it is going to imbue the ample war powers outlined in Article I with newfound relevance and meaning. For that to happen, Congress itself must claim for itself its constitutional powers regarding war. Obama did not seek Congress's approval because on that Friday stroll on the White House lawn he suddenly remembered his Con Law teaching notes from his University of Chicago days. He did so for political reasons. Or more exactly, he did so to force members of Congress to go on the record today in order to mute their criticisms tomorrow. And let's be clear, **Congress** -for all its dysfunction and gridlock -**still has the capacity to kick up a good dust storm** over the human and financial costs of military operations. Constitutional musings from Capitol Hill -of the sort a handful of Democrats and Republicans engaged in this past week -rarely back the president into a political corner. The mere prospect of members of Congress casting a bright light on the human tolls of war, however, will catch any president's attention. Through hearings, public speeches, investigations, and floor debates, members of Congress can fix the media's attention -and with it, the public's -on the costs of war, which can have political repercussions both at home and abroad. Think, then, about the stated reasons for some kind of military action in Syria. No one is under the illusion that a short, targeted strike is going to overturn the Assad regime and promptly restore some semblance of peace in the region. In the short term, the strike might actually exacerbate and prolong the conflict, making the eventual outcome even more uncertain. And even the best-planned, most-considered military action won't go exactly according to plan. Mishaps can occur, innocent lives may be lost, terrorists may be emboldened, and anti-American protests in the region will likely flare even hotter than they currently are. The core argument for a military strike, however, centers on the importance of strengthening international norms and laws on chemical and biological weapons, with the hope of deterring their future deployment. The Assad regime must be punished for having used chemical weapons, the argument goes, lest the next autocrat in power considering a similar course of action think he can do so with impunity. But herein lies the quandary. The most significant reasons for military action are abstract, largely hidden, and temporally distant. The potential downsides, though, are tangible, visible, and immediate. And in a domestic political world driven by visual imagery and the shortest of time horizons, it is reckless to pursue this sort of military action without some kind of political cover. Were Obama to proceed without congressional authorization, he would invite House Republicans to make all sorts of hay about his misguided, reckless foreign policy. But by putting the issue before Congress, these same Republicans either must explain why the use of chemical weapons against one's people does not warrant some kind of military intervention; or they must concede that some form of exacting punishment is needed. Both options present many of the same risks for members of Congress as they do for the president. But crucially, if they come around to supporting some form of military action -and they just might -**members of Congress will have an awfully difficult time criticizing the president for the fallout**. Will the decision on Saturday hamstring the president in the final few years of his term? I doubt it**.** Having gone to Congress on this crisis, must he do so on every future one? No. Consistency is hardly the hallmark of modern presidents in any policy domain, and certainly not military affairs. Sometimes presidents seek Congress's approval for military action, other times they request support for a military action that is already up and running, and occasionally they reject the need for any congressional consent at all. And for good or ill, it is virtually impossible to discern any clear principle that justifies their choices. The particulars of every specific crisis -its urgency, perceived threat to national interests, connection to related foreign policy developments, and what not -can be expected to furnish the president with ample justification for pursuing whichever route he would like. Like jurists who find in the facts of a particular dispute all the reasons they need for ignoring inconvenient prior case law, presidents can characterize contemporary military challenges in ways that render past ones largely irrelevant. Partisans and political commentators will point out the inconsistencies, but their objections are likely to be drowned out in rush to war. **Obama's decision does not usher in a new era of presidential power**, nor does it permanently remake the way we as a nation go to war. **It reflects a temporary political calculation** -and in my view, the right one -of a president in a particularly tough spot. Faced with a larger war he doesn't want, an immediate crisis with few good options, and yet a moral responsibility to act, he is justifiably expanding the circle of decision-makers. But don't count on it to remain open for especially long.

That means the squo and CP’s embracement of the plan as a policy—not legal—mechanism solves both the case and disad

Curtis Bradley, William Van Alstyne Professor of Law, Professor of Public Policy Studies, and Senior Associate Dean for Academic Affairs, 9/2/13, War Powers, Syria, and Non-Judicial Precedent, www.lawfareblog.com/2013/09/war-powers-syria-and-non-judicial-precedent/

One claim that is being made about President Obama’s decision to seek congressional authorization for military action in Syria is that it is likely to weaken the authority of the presidency with respect to the use of force. Peter Spiro contends, for example, that Obama’s action is “a watershed in the modern history of war power” that may end up making congressional pre-authorization a necessary condition for even small-scale military operations. David Rothkopf states even more dramatically that “Obama’s decision may have done more—for better or worse—to dial back the imperial presidency than anything his predecessors or Congress have done for decades.” If this claim is correct, it will be welcome news to those concerned about the growth of executive power and a matter of concern for those who are fans of robust executive unilateralism. Unfortunately, the commentators making this claim do not identify the mechanism through which the weakening of presidential war authority will occur and have relied instead only on vague intuitions. As an initial matter, we need to bracket the issue of whether Obama’s action will weaken his own power as a political matter. This is a complicated issue: on the one hand, it may signal weakness both to Congress and to other nations; on the other hand, if he obtains congressional authorization, he may be in an ultimately stronger political position, as Jack Goldsmith has pointed out. As I understand it, the claim being made by Spiro, Rothkopf, and others is that the power of the presidency more generally is being weakened. How might this happen? Not through an influence on judicial doctrine: Although courts sometimes take account of historic governmental practices when assessing the scope of presidential authority, they have consistently invoked limitations on standing and ripeness, as well as the political question doctrine, to avoid addressing constitutional issues relating to war powers. In the absence of judicial review, what is the causal mechanism by which the “precedent” of Obama seeking congressional authorization for the action in Syria could constrain future presidential action? When judicial review is unavailable, the most obvious way in which the President is constrained is through the political process—pressure from Congress, the public, his party, etc. In an extreme case, this pressure could take the form of impeachment proceedings, but it does not take such an extreme case for the pressure to have a significant effect on presidential decisionmaking. Indeed, it is easy to think of political considerations that might have motivated Obama to go to Congress with respect to Syria. That’s all fairly clear, but **what is unclear is how a non-judicial precedent, such as** Obama’s decision **to seek congressional authorization** for Syria, **will have an effect on later decisions with respect to the use of force**. The intuition, I think, is that Obama’s action will strengthen the hand of critics of later efforts by presidents to act unilaterally. It will give the critics more “ammunition,” so to speak. But why is this so, and what is meant, specifically, by “ammunition”? Obama claims that he is seeking congressional authorization for policy reasons, not because he is required to do so, and a later president is likely to reiterate that explanation. Moreover, if Obama is seeking congressional authorization for Syria because of political considerations (weak international and domestic support, public weariness about war, etc.), why would a later president feel compelled to follow that precedent when those political considerations do not apply? It is easier to imagine a constraining precedential effect, I think, if Congress votes down an authorization bill on Syria, and the President then declines to take action. After all, Obama has already stated that he has made a decision as Commander in Chief to use force. If he responds to a negative vote in Congress by not doing so, it might seem like a concession against interest that he lacks authority to act when Congress is opposed. Even if this did produce a constraining precedent, it would have limited effect, since it would not apply when (as is often the case) Congress does not take action one way or the other. But even here, the mechanism of the constraint is uncertain: Obama would likely claim that he was declining to take action for political reasons, such as the reduced likelihood of success created by the disunity between the branches, or the passage of time, or the lack of sufficient international support. Why would a future president facing different circumstances feel constrained by Obama’s inaction?

Only ceding the legal authority boxes in future presidents, even if congress vetoes it.

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

One of the most misleading metaphors in the discussion of President Obama’s Syria policy is that the president has “boxed himself in” or has “painted himself into a corner.” These metaphors treat a president’s available actions as if they were physical spaces and limits on action as if they were physical walls. Such metaphors would make sense only if we also stipulated that Obama has the power to snap his fingers and create a door or window wherever he likes. **The Syria crisis has not created a new precedent for limiting presidential power. To the contrary, it has offered multiple opportunities for increasing it.** **If Congress says no to Obama, it will not** significantly **restrain future presidents** from using military force. At best, it will preserve current understandings about presidential power. If Congress says yes, it may bestow significant new powers on future presidents -and it will also commit the United States to violating international law. For Obama plans to violate the United Nations Charter, and he wants Congress to give him its blessing. People who believe Obama has painted himself into a corner or boxed himself in might not remember that the president always has the option to ask Congress to authorize any military action he proposes, thus sharing the responsibility for decision if the enterprise goes sour. If Congress refuses, Obama can easily back away from any threats he has made against Syria, pointing to the fact that Congress would not go along. There is no corner. There is no box. Wouldn’t congressional refusal make the United States look weak, as critics including Senator John McCain warn loudly? Hardly. The next dictator who acts rashly will face a different situation and a different calculus. The UN Security Council or NATO may feel differently about the need to act. There may be a new threat to American interests that lets Obama or the next president offer a different justification for acting. It just won’t matter very much what Obama said about red lines in the past. World leaders say provocative things all the time and then ignore them. Their motto is: That was then, and this is now. If Congress turns him down, won’t Obama be undermined at home, as other critics claim? In what sense? It is hard to see how the Republicans could be less cooperative than they already are. And it’s not in the interest of Democrats to fault a president of their own party for acceding to what Congress wants instead of acting unilaterally. Some commentators argue (or hope) that whatever happens, Obama’s request for military authorization will be an important precedent that will begin to restore the constitutional balance between the president and Congress in the area of war powers. Don’t bet on it. By asking for congressional authorization in this case, Obama has not ceded any authority that he ­or any other president ­has previously asserted in war powers.

## Sharif Adv.

Drones are effective and alternatives are worse—status quo drones don’t kill relations.

Byman 13 (Daniel Byman, Brookings Institute Saban Center for Middle East Policy, Research Director, and Foreign Policy, Senior Fellow, July/Aug 2013, “Why Drones Work: The Case for the Washington's Weapon of Choice”, www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman)

Despite President Barack Obama’s recent call to reduce the United States’ reliance on drones, they will likely remain his administration’s weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have **devastated** al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused. Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage. So drone warfare is here to stay, and it is likely to expand in the years to come as other countries’ capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid. NOBODY DOES IT BETTER The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. **drones have killed** an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 **senior leaders** of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And **drones** also hurt terrorist organizations when they **eliminate** operatives who are lower down on the food chain but who boast **special skills**: passport forgers, bomb makers, recruiters, and fundraisers. **Drones** have also **undercut terrorists’ ability to communicate and** to **train** new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. **Drones** **have turned** al Qaeda’s **command** and training **structures** into a liability, forcing the group to choose between having no leaders and risking dead leaders. Critics of drone strikes often fail to take into account the fact that the alternatives are either too risky or unrealistic. To be sure, in an ideal world, militants would be captured alive, allowing authorities to question them and search their compounds for useful information. Raids, arrests, and interrogations can produce vital intelligence and can be less controversial than lethal operations. That is why they should be, and indeed already are, used in stable countries where the United States enjoys the support of the host government. But in war zones or unstable countries, such as Pakistan, Yemen, and Somalia, arresting militants is highly dangerous and, even if successful, often inefficient. In those three countries, the government exerts little or no control over remote areas, which means that it is highly dangerous to go after militants hiding out there. Worse yet, in Pakistan and Yemen, the governments have at times cooperated with militants. If the United States regularly sent in special operations forces to hunt down terrorists there, sympathetic officials could easily tip off the jihadists, likely leading to firefights, U.S. casualties, and possibly the deaths of the suspects and innocent civilians. Of course, it was a Navy SEAL team and not a drone strike that finally got bin Laden, but in many cases in which the United States needs to capture or eliminate an enemy, raids are too risky and costly. And even if a raid results in a successful capture, it begets another problem: what to do with the detainee. Prosecuting detainees in a federal or military court is difficult because often the intelligence against terrorists is inadmissible or using it risks jeopardizing sources and methods. And given the fact that the United States is trying to close, rather than expand, the detention facility at Guantánamo Bay, Cuba, it has become much harder to justify holding suspects indefinitely. It has become more politically palatable for the United States to kill rather than detain suspected terrorists. Furthermore, although a drone strike may violate the local state’s sovereignty, it does so to a **less**er degree than would putting U.S. boots on the ground or conducting a large-scale air campaign. And compared with a 500-pound bomb dropped from an F-16, the grenade like warheads carried by most drones create smaller, more precise blast zones that **decrease** the risk of unexpected structural **damage and casualties**. Even more important, drones, unlike traditional airplanes, can loiter above a target for hours, waiting for the ideal moment to strike and thus **reducing the odds that civilians will be caught in the kill zone**. Finally, using drones is also **far less bloody** than asking allies to hunt down terrorists on the United States’ behalf. The Pakistani and Yemeni militaries, for example, are known to regularly **torture and execute detainees,** and they often indiscriminately bomb civilian areas or use scorched-earth tactics against militant groups.

Drone decapitation solves safe havens – prevents an attack in the US

Johnston 12 (Patrick B. Johnston is an associate political scientist at the RAND Corporation, a nonprofit, nonpartisan research institution. He is the author of "Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns," published in International Security (Spring 2012)., 8/22/2012, "Drone Strikes Keep Pressure on al-Qaida", www.rand.org/blog/2012/08/drone-strikes-keep-pressure-on-al-qaida.html)

Should the U.S. continue to strike at al-Qaida's leadership with drone attacks? A recent poll shows that while most Americans approve of drone strikes, in 17 out of 20 countries, more than half of those surveyed disapprove of them.

My study of leadership decapitation in 90 counter-insurgencies since the 1970s shows that **when militant leaders are captured or killed militant attacks decrease, terrorist campaigns end sooner**, and their outcomes tend to favor the government or third-party country, not the militants.

Those opposed to drone strikes often cite the June 2009 one that targeted Pakistani Taliban leader Baitullah Mehsud at a funeral in the Tribal Areas. That strike reportedly killed 60 civilians attending the funeral, but not Mehsud. He was killed later by another drone strike in August 2009. His successor, Hakimullah Mehsud, developed a relationship with the foiled Times Square bomber Faisal Shahzad, who cited drone strikes as a key motivation for his May 2010 attempted attack.

Compared to manned aircraft, **drones have some advantages as counter-insurgency tools, such as lower costs, longer endurance and the lack of a pilot to place in harm's way and risk of capture. These characteristics can enable a more deliberative targeting process that serves to minimize unintentional casualties**. But the weapons employed by drones are usually identical to those used via manned aircraft and can still kill civilians—creating enmity that breeds more terrorists.

Yet many insurgents and terrorists have been taken off the battlefield by U.S. drones and special-operations forces. Besides Mehsud, the list includes Anwar al-Awlaki of al-Qaida in the Arabian Peninsula; al-Qaida deputy leader Abu Yahya al-Li-bi; and, of course, al-Qaida leader Osama bin Laden. Given that list, it is possible that **the drone program has** prevented numerous attacks **by their potential followers**, like Shazad.

What does the removal of al-Qaida leadership mean for U.S. national security? Though many in al-Qaida's senior leadership cadre remain**, the historical record suggests that "decapitation" will likely weaken the organization and could** cripple its ability to conduct major attacks **on the U.S. homeland**.

Killing terrorist leaders is not necessarily a knockout blow, but can make it harder for terrorists to attack the U.S. Members of al-Qaida's central leadership, once safely amassed in northwestern Pakistan while America shifted its focus to Iraq, have been killed, captured, forced underground or scattered to various locations with little ability to communicate or move securely.

Recently declassified correspondence seized in the bin Laden raid shows that the relentless pressure from the drone campaign on al-Qaida in Pakistan led bin Laden to advise al-Qaida operatives to leave Pakistan's Tribal Areas as no longer safe. Bin Laden's letters show that U.S. counterterrorism actions, which had forced him into self-imposed exile, **had made running the organization not only more risky, but also more difficult**.

As al-Qaida members trickle out of Pakistan and seek sanctuary elsewhere, the U.S. military is ramping up its counterterrorism operations in Somalia and Yemen, while continuing its drone campaign in Pakistan. Despite its controversial nature**, the U.S. counter-terrorism strategy has demonstrated** a degree of **effectiveness**.

The Obama administration is committed to reducing the size of the U.S. military's footprint overseas by relying on drones, special operations forces, and other intelligence capabilities. These methods **have made it more difficult for al-Qaida remnants to** reconstitute a new safe haven, as Osama bin Laden did in Afghanistan in 1996, after his ouster from Sudan.

## Relations Adv.

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.

# 1NR

## 2nc impact ov

Extinction

Toon, chair – Department of Atmospheric and Oceanic Sciences – Colorado University, 4/19/’7

(Owen B, climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf)

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

Most probable

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, **‘9** (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

Iran prolif is a crisis magnifier – draws in great powers to small conflicts

Edelman, Fellow – Center of Strategic and Budgetary Assessments, ‘11

(Eric, “Edelman, Krepinevich, and Montgomery Reply,” *Foreign Affairs* Vol. 9 Iss. 2, March/April)

Ultimately, if Tehran does cross the nuclear threshold and Israel chooses to live with a nuclear-armed Iran, one of the principal objectives of U.S. policy should be convincing Israel to maintain its policy of nuclear opacity for as long as possible. The benefit of a slightly more credible Israeli deterrent would not outweigh the added difficulties the United States would confront in seeking to limit a nuclear Iran's influence, preserve regional stability, and prevent additional proliferation.

A second important issue Adamsky raises is that Iran's acquisition of nuclear weapons would increase the threat that Israel faced from Iranian proxies such as Hamas and Hezbollah, either because Tehran would provide increased assistance and encouragement to these groups or because they would become more reckless once they had a nuclear-armed patron. A premeditated attack by Iran against Israel is not the only scenario that could lead to a nuclear exchange, or even the most plausible one. Instead, a limited conflict in southern Lebanon or the Gaza Strip might spiral out of control. Iranian proxies could escalate their attacks against Israel, assuming that it would be deterred by its fear of a nuclear Iran. Israel could then defy their expectations and conduct major reprisals to demonstrate its resolve, prompting Iran to make nuclear threats in defense of its clients. The results would be unpredictable and potentially disastrous. Although debates over Iran's nuclear program often turn on the issue of Iranian "rationality," it is important to remember that there are many different paths to conflict, and the dynamics of Iranian-Israeli relations could be prone to miscalculation and escalation.

## heg impact

Nuclear Iran kills U.S. hegemony – emboldens enemies and weakens alliances

Takeyh and Lindsay, 10

[James M. Lindsay, Senior Vice President, Director of Studies, and Maurice R. Greenberg Chair, Ray Takeyh, Senior Fellow for Middle Eastern Studies “After Iran Gets the Bomb Containment and Its Complications,” March/April 2010, <http://www.cfr.org/publication/22182/after_iran_gets_the_bomb.html>]

The dangers of Iran's entry into the nuclear club are well known: emboldened by this development, Tehran might multiply its attempts at subverting its neighbors and encouraging terrorism against the United States and Israel; the risk of both conventional and nuclear war in the Middle East would escalate; more states in the region might also want to become nuclear powers; the geopolitical balance in the Middle East would be reordered; and broader efforts to stop the spread of nuclear weapons would be undermined. The advent of a nuclear Iran—even one that is satisfied with having only the materials and infrastructure necessary to assemble a bomb on short notice rather than a nuclear arsenal—would be seen as a major diplomatic defeat for the United States. Friends and foes would openly question the U.S. government's power and resolve to shape events in the Middle East. Friends would respond by distancing themselves from Washington; foes would challenge U.S. policies more aggressively.

Such a scenario can be avoided, however. Even if Washington fails to prevent Iran from going nuclear, it can contain and mitigate the consequences of Iran's nuclear defiance. It should make clear to Tehran that acquiring the bomb will not produce the benefits it anticipates but isolate and weaken the regime. Washington will need to lay down clear "redlines" defining what it considers to be unacceptable behavior—and be willing to use military force if Tehran crosses them. It will also need to reassure its friends and allies in the Middle East that it remains firmly committed to preserving the balance of power in the region.

Containing a nuclear Iran would not be easy. It would require considerable diplomatic skill and political will on the part of the United States. And it could fail. A nuclear Iran may choose to flex its muscles and test U.S. resolve. Even under the best circumstances, the opaque nature of decision-making in Tehran could complicate Washington's efforts to deter it. Thus, it would be far preferable if Iran stopped—or were stopped—before it became a nuclear power. Current efforts to limit Iran's nuclear program must be pursued with vigor. Economic pressure on Tehran must be maintained. Military options to prevent Iran from going nuclear must not be taken off the table.

## econ impact

Destroys the world economy

Phillips 2K6

(Phillips Research Fellow for Middle East­ern Affairs in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Stud­ies, at The Heritage Foundation, 06 James, June 2, “U.S. Policy and Iran’s Nuclear Challenge” <http://www.heritage.org/Research/Iran/hl942.cfm>)

There is no guaranteed policy that can halt the Iranian nuclear program short of war, and even a military campaign may only delay Iran’s acquisition of a nuclear weapons capability. But U.S. policy­making regarding the Iranian nuclear issue inevita­bly boils down to a search for the least-bad option. And as potentially costly and risky as a preventive war against Iran would be, allowing Iran to acquire nuclear weapons would result in far heavier poten­tial costs and risks. The U.S. probably would be able to deter Iran from a direct nuclear attack on American or Israeli targets by threatening massive retaliation and the assured destruction of the Iranian regime. But there is a lingering doubt that a leader such as President Ahmadinejad, who reportedly harbors apocalyptic religious beliefs, would have the same cost-benefit calculus about a nuclear war as other leaders. The bellicose leader, who boldly called for Israel to be “wiped off the map” before he acquired a nuclear weapon, might be sorely tempted to follow through on his threat after he acquired one. Moreover, his regime might risk passing nuclear weapons off to terrorist surrogates in hopes of escaping retaliation for a nuclear surprise attack launched by an unknown attacker. Even if Iran could be deterred from considering such attacks, an Iranian nuclear breakout would undermine the Nuclear Non-Proliferation Treaty and trigger a nuclear arms race in the Middle East that could lead Saudi Arabia, Egypt, Turkey, Iraq, and Algeria to build or acquire their own nuclear weap­ons. Each new nuclear power would multiply the risks and uncertainties in an already volatile region. Iran also may be emboldened to step up its sup­port of terrorism and subversion, calculating that its nuclear capability would deter a military response. An Iranian miscalculation could easily lead to a future military clash with the United States or an American ally that would impose expo­nentially higher costs than a war with a non-nucle­ar Iran. Even if it could not threaten a nuclear missile attack on U.S. territory for many years, Tehran could credibly threaten to target the Saudi oil fields with a nuclear weapon, thereby gaining a potent blackmail threat over the world economy.

## mideast + central asia

Nukes cause regional aggression and Central Asian instability

Blank, 03

Stephen Blank, analyst of international security affairs, Jun 24, 2003, “Iran's nuclear allies play with fire,” Asia Times< <http://www.atimes.com/atimes/Middle_East/EF24Ak03.html>>

All these forces that drive Iran's programs are well known. Many are long-standing and in some cases they are comparable to the motives that drove other nuclear states to acquire nuclear weapons. But one needs to think carefully about the threats that may emerge from Iran if it does indeed become a nuclear player. As in all other cases of nuclearization, possession of nuclear weapons will essentially codify Iran's immunity from foreign pressure as related to its defense and foreign policies. The most dangerous aspect of this is that the possession of nuclear weapons makes it much safer for Iran to launch conventional wars or attacks against its enemies. Pakistan's sponsorship of an unrelenting terrorist war against India dating back 15 years exemplifies the danger. And Iran's terrorist war has as a clear objective, the derailment of any peace process in Israel, the incitement of anti-Semitism in the Islamic world, if not beyond, and the destabilization of the new American presence in Iraq and beyond that in the Middle East and Central Asia.

But beyond that, in the past Iran has used its conventional weapons to threaten Azerbaijan and Kazakstan with regard to energy holdings in the Caspian Sea and has conducted terrorist operations against dissidents in Europe, often with the help of similarly-minded regimes like Libya. It also, according to US intelligence assessments given to Congress, has the capability to close down the Straits of Hormuz and to interdict shipping there and into the Gulf for several days. If it achieves a nuclear deterrent to back up the conventional capabilities it is also acquiring, Iran can pose a formidable regional threat to the global economy, and not just its neighbors or Israel. This is magnified by the fact that it apparently can produce usable anti-ship missiles on its own. Or at least, so it claims.

Apart from being a supporter of terrorism, Iran is also clearly a proliferator of conventional weapons to terrorists, as the interception of the Karine-A ship in 2002 by Israel showed. And the possibility of becoming a supplier to other states who wish to obtain nuclear weapons cannot be ruled out. That ship, it should be remembered, was carrying US$10 million of weapons, many of which seemed to have originated in Russia or were made in Iran using Russian know-how that had been exported to Iran. Those weapons would have provided the Palestinian Authority with the means to dramatically upgrade its capabilities for terrorist attacks against Israelis. Iran is also a customer for North Korean, Chinese and Russian proliferation, and at the same time a very interested player in the fate of Afghanistan. Thus, from the foregoing, we can see that it has an ambitious and rather destabilizing foreign policy agenda.

## turns case – us cred

Iran prolif jacks US cred

Bolton, senior fellow – AEI, 4/15/’11

(John, <http://www.aei.org/article/103463>)

Inside Iran, we now have confirmation—thanks to disclosures this month by an Iranian opposition group, which have been confirmed by Iranian officials—that the regime has the capability to mass-produce critical components for centrifuges used to enrich uranium to weapons-grade levels. That news proves again the inefficacy of U.N. Security Council resolutions and sanctions against a determined adversary.

Thus Iran's weapons program proceeds full steam ahead, which only emphasizes to would-be proliferators that persistence pays. Moammar Gadhafi surrendered his nuclear weapons program in 2003-04 because he feared becoming the next Saddam Hussein, but he is now undoubtedly cursing his timidity. Had he made seven years of progress toward deliverable nuclear weapons, there would surely be no NATO bombing of his military today.

An Iranian nuclear capability would undoubtedly cause Saudi Arabia, Egypt, Turkey and perhaps others to seek their own deliverable nuclear weapons. We would therefore see a region substantially more in Iran's thrall and far more unstable and dangerous for Washington and its allies.

Moreover, America's failure to stop Iran's nuclear ambitions—which is certainly how it would be perceived worldwide—would be a substantial blow to U.S. influence in general. Terrorists and their state sponsors would see Iran's unchallenged role as terrorism's leading state sponsor and central banker, and would wonder what they have to lose.

## 2NC---Uniqueness Wall

Prefer our evidence—it’s most recent which assumes changes in momentum which is key.

Iran strategy is working—any Congressional rebukes trigger the link

Joel Rubin, Politico, 10/20/13, Iran’s diplomatic thaw with the West, dyn.politico.com/printstory.cfm?uuid=FBFABC3B-C9A8-47F8-A9AC-BC886BCE0552

Congratulations, Congress. Your Iran strategy is working. Now what?

The diplomatic thaw between Iran and the West is advancing, and faster than most of us had imagined. This is the result of years of painstaking efforts by the Obama administration and lawmakers to pressure the Islamic Republic into deciding whether it’s in Iran’s interest to pursue diplomacy or to continue suffering under crushing economic sanctions and international isolation.

Now that Iran has made a clear decision to engage seriously in diplomatic negotiations with the West over its nuclear program, its intentions should be tested. Members of Congress should be open to seizing this opportunity by making strategic decisions on sanctions policy.

The economic sanctions against Iran that are in place have damaged the Iranian economy. A credible military threat — with more than 40,000 American troops in the Persian Gulf — stands on alert. International inspectors are closely monitoring Iran’s every nuclear move. Iran has not yet made a decision to build a bomb, does not have enough medium-enriched uranium to convert to weapons grade material for one bomb and has neither a workable nuclear warhead nor a means to deliver it at long ranges. If Iran were to make a dash for a bomb, the U.S. intelligence community estimates that it would take roughly one to two years to do so.

Congress, with its power to authorize sanctions relief, plays a crucial role in deciding whether a deal will be achieved. This gives Congress the opportunity to be a partner in what could potentially be a stunning success in advancing our country’s security interests without firing a shot.

Consider the alternative: If the administration negotiates a deal that Congress blocks, and Congress becomes a spoiler, Iran will most likely continue to accelerate its nuclear program. Then lawmakers would be left with a stark choice: either acquiesce to an unconstrained Iranian nuclear program and a potential Iranian bomb or endorse the use of force to attempt to stop it. Most military experts rate the odds of a successful bombing campaign low and worry that failed strikes would push Iran to get the bomb outright.

Iran and the United States need a political solution to this conflict. Now is the time to test the Iranians at the negotiating table, not push them away.

Congress is also being tested, but the conventional wisdom holds that lawmakers won’t show the flexibility required to make a deal. Such thinking misses the political volatility just beneath the surface: Americans simply don’t support another war in the Middle East, as the congressional debate over Syria made crystal clear. Would they back much riskier military action in Iran?

Fortunately for Congress, President Barack Obama was agile enough to seize the diplomatic route and begin to eliminate Syria’s chemical weapons. These results are advancing U.S. security interests. And members of Congress breathed a collective sigh of relief as well as they didn’t have to either vote to undercut the commander in chief on a security issue or stick a finger in the eye of their constituents.

The same can happen on Iran. By pursuing a deal, Obama can provide Congress with an escape hatch, where it won’t have to end up supporting unpopular military action or have to explain to its constituents why it failed to block an Iranian bomb. A verifiable deal with Iran that would prevent it from acquiring a nuclear weapon would require sanctions relief from Congress. But that’s an opportunity to claim victory, not a burden. And it would make Congress a partner with the president on a core security issue. Congress could then say, with legitimacy, that its tough sanctions on Iran worked — and did so without starting another unpopular American war in the Middle East.

BUT, Sealing the deal NOW is key—continued delay saps momentum on all sides, collapses negotiations

Einhorn 11/14/13

Robert, Senior Fellow, Foreign Policy, Center for 21st Century Security and Intelligence, Arms Control and Non-Proliferation Initiative, “Despite The Hiccup In Geneva, Iran Nuclear Talks Still On Track,” <http://www.brookings.edu/blogs/iran-at-saban/posts/2013/11/14-einhorn-iran-nuclear-talks-on-track>

Time is not on anyone’s side. As long as sanctions are in effect — and they will remain in effect until an acceptable final deal is implemented — Iran’s economy will continue to deteriorate. And unless an initial deal **is put in place soon** to halt further advances in Iran’s nuclear program, Iran could take steps that would bring it much closer to having a **rapid breakout capability**. No less than Iran, the United States should want an early and sound deal. But **the longer it takes to get such a deal, the harder it will be to bring it to closure**, as opponents of any negotiated solution mobilize and the necessary political support for a deal, **in Washington and Tehran**, erodes. Of course, neither the United States nor Iran will rush into a deal before it believes a deal is in hand that serves its interests. But neither should they believe that the opportunity for arriving at such a deal will stay open for long.

## at no deal—top line

Deal now, Congress is key

Einhorn 11/14/13

Robert, Senior Fellow, Foreign Policy, Center for 21st Century Security and Intelligence, Arms Control and Non-Proliferation Initiative, “Despite The Hiccup In Geneva, Iran Nuclear Talks Still On Track,” <http://www.brookings.edu/blogs/iran-at-saban/posts/2013/11/14-einhorn-iran-nuclear-talks-on-track>

The P5+1 talks with Iran in Geneva late last week produced a lot of drama – foreign ministers unexpectedly clearing their schedules and flying in, reports of disunity among the P5+1 partners, post-midnight negotiating sessions, media speculation about a breakdown, and finger-pointing about whom to blame. One might have thought the negotiations on the Iran nuclear issue had hit a brick wall and were at the point of collapse. **The reality is more tame.** Although expectations had been raised for an announcement of a deal before the end of the week, the difficulties of managing a highly complex negotiation involving several independent and strong-willed countries in a compressed period of time became apparent. So, while making very impressive progress in just a few days, the talks could not quite come to closure. **There will be another opportunity to do so in a week's time.** What Happened In Geneva The bump in the road that apparently slowed last week’s momentum was the introduction by France of proposed modifications to the draft text being negotiated. The suggested changes were designed to strengthen the constraints on Iran’s nuclear program, especially on the Arak heavy water reactor, and were consistent with the traditionally tough line Paris has taken in recent years on the Iran nuclear issue. They may also have reflected French pique at not having been adequately consulted in the preparation of the draft, which had already been worked extensively with the Iranian delegation. Complicating the situation and heightening the drama was the French decision to go public with their reservations, a move sharply at variance with the discipline other governments have showed in keeping the talks confidential. French Foreign Minister Laurent Fabius arrived in town and told reporters that he could not accept the text under consideration and called the emerging deal a "fool's game."However, despite the impression that the French were posing fundamental objections to the emerging agreement and had thrown a monkey wrench into the proceedings, their proposed changes were relatively modest and aimed at improving an already well-designed agreement. Although some commentators suggested that the French proposals were essential to stopping progress on the Arak reactor, in fact measures had already been agreed that would significantly halt such progress. French ideas were useful additions, but they did not, as some reports have indicated, rectify serious shortcomings in the emerging agreement. Reports of P5+1 **disunity were overblown**. The P5+1 delegations discussed the ideas that the French and other delegations put forward for modifying the draft text and decided to issue a revised version incorporating most of what Paris wanted. As Secretary Kerry stated publicly, the partner governments reached a **full consensus** on a somewhat revised draft agreement and presented the text to the Iranians. The new text contained some elements the Iranians hadn't seen before, which went somewhat beyond what they had earlier agreed to. They felt they were in no position to accept the revisions on the spot and said they would have to return to Tehran for internal deliberations. So, despite the drama, the talks did not reach a conclusion for understandable reasons. French officials raised legitimate issues, although they could be faulted for doing so publicly. Its partners considered the French ideas and endorsed most of them. And the Iranians decided to take more time to consider some elements they had not previously seen. Hardly a crisis in the negotiations. Indeed, **according to Kerry**, the parties are **very close** **to agreement** on an initial step that would effectively halt advances in Iran’s nuclear program for six months, during which time negotiations would proceed on the details of a final agreement. In exchange for constraining its program in an initial step, Iran would receive modest relief from sanctions that would leave the structure of the current sanctions regime intact and allow the P5+1 countries to retain plenty of leverage to get Iran to accept a final deal that meets their requirements. Some finger-pointing followed the conclusion of the Geneva round. To show solidarity with France and counter concerns about disharmony in the group, Secretary Kerry stated publicly that the P5+1 had a unified proposal that Iran was unable to accept, omitting that the proposal had been modified from the version Iran had already seen. Foreign Minister Zarif, the fastest and most skillful Tweeter east of the Euphrates, shot back that Kerry’s "spin" could not conceal the fact that it was the P5+1 , and especially France, that had modified the text and undermined prospects for early conclusion of the deal. Still, as blame games go, this one was rather mild and short-lived. Soon, statements were made by all sides **that much progress had been achieved** and that an agreement could **hopefully be reached** at the next round. Dealing With Congress So, despite the late-inning hiccup, the talks remain on track. **The main question mark** now is what happens away from the negotiating table – in the halls of Congress, in the U.S.-Israeli relationship, and in Tehran. Vice President Biden, Secretary Kerry, and other administration officials have an uphill fight to convince the Congress to hold off on additional sanctions to give diplomacy some additional time to work. Key members are sincere — at least most of them — in believing that more sanctions will help produce a sound agreement rather than scuttle prospects for one. But what if the administration is right and they are wrong? What if new sanctions make it politically impossible for Iran to accept the kind of deal we need? What if new sanctions make Iran look like the reasonable party and us the intransigent one and this results in the erosion of international support for sanctions? What if the scuttling of the diplomatic option leaves us with only very unpalatable options for heading off an Iranian nuclear capability? We don’t know how great the risks are that new sanctions will undermine negotiations. But there is clearly a risk. Members of Congress need to look down the road and consider what choices will have to be faced if their actions inadvertently **undercut the best opportunity we’ve had** in years for resolving the Iran nuclear issue peacefully.

1. It also doesn’t account for the election of Rouhani – well impact that –

Effective negotiations likely

Susanne Maloney, Senior Fellow, Saban Center for Middle East Policy, Brookings Institution, 10/18/13, Time Ripe for Iranian Nuclear Accord?, [www.cfr.org/arms-control-disarmament-and-nonproliferation/time-ripe-iranian-nuclear-accord/p31660?cid=rss-analysisbriefbackgroundersexp-time\_ripe\_for\_iranian\_nuclear\_-101813](http://www.cfr.org/arms-control-disarmament-and-nonproliferation/time-ripe-iranian-nuclear-accord/p31660?cid=rss-analysisbriefbackgroundersexp-time_ripe_for_iranian_nuclear_-101813)

Predictions with Iran are incredibly dangerous, as I think you know. But I'm very optimistic. I'm not irrationally exuberant. There has been just a little bit too much adoration of the new tone that we've heard from Iran, and I think that it's important to remember that we're only beginning to see the first real tangible signs of change within the country.

But it's quite clear that Rouhani was elected with a mission and a mandate to find some way out of the nuclear mess and rehabilitate Iran's role in the world and fix its economy. The only way that he can do this is to come to an agreement with the international community. The negotiators and the officials that we have seen in New York and Geneva have made very clear that they are empowered, prepared, and willing. I think it's also clear that the [Obama] administration sees the opportunity before it and is attempting to seize that opportunity.

## 2NC---Link

Huq, University of Chicago Law School assistant professor, 12

(Aziz Z., 5/25, “Binding the Executive (by Law or by Politics),” accessed: 10/3/2013, <http://www.law.uchicago.edu/files/file/400-ah-binding.pdf>, ADC)

There is some merit to this story. But in my view it again understates the observed effect of positive legal constraints on executive discretion. Recent scholarship, for example, has documented congressional influence on the shape of military policy via framework statutes. This work suggests Congress influences executive actions during military engagements through hearings and legislative proposals.75 Consistent with this account, two legal scholars have recently offered a revisionist history of constitutional war powers in which “Congress has been an active participant in setting the terms of battle,” in part because “congressional willingness to enact[ ] laws has only increased” over time.76 In the last decade, Congress has often taken the initiative on national security, such as enacting new statutes on military commissions in 2006 and 2009.77 Other recent landmark security reforms, such as a 2004 statute restructuring the intelligence community,78 also had only lukewarm Oval Office support.79 Measured against a baseline of threshold executive preferences then, Congress has achieved nontrivial successes in shaping national security policy and institutions through both legislated and nonlegislated actions even in the teeth of White House opposition.80 The same point emerges more forcefully from a review of our “fiscal constitution.” 81 Article I, § 8 of the Constitution vests Congress with power to “lay and collect Taxes” and to “borrow Money on the credit of the United States,” while Article I, § 9 bars federal funds from being spent except “in Consequence of Appropriations made by Law.” 82 Congress has enacted several framework statutes to effectuate the “powerful limitations” implicit in these clauses.83 The resulting law prevents the President from repudiating past policy commitments (as Skowronek suggests) as well as imposing barriers to novel executive initiatives that want for statutory authorization. 84 Three statutes merit attention here. First, the Miscellaneous Receipts Act of 184985 requires that all funds “received from customs, from the sales of public lands, and from all miscellaneous sources, for the use of the United States, shall be paid . . . into the treasury of the United States.” 86 It ensures that the executive cannot establish offbalance-sheet revenue streams as a basis for independent policy making. Second, the Anti-Deficiency Act,87 which was first enacted in 1870 and then amended in 1906, 88 had the effect of cementing the principle of congressional appropriations control.89 With civil and criminal sanctions, it prohibits “unfunded monetary liabilities beyond the amounts Congress has appropriated,” and bars “the borrowing of funds by federal agencies. . . in anticipation of future appropriations.” 90 Finally, the Congressional Budget and Impoundment Control Act of 197491 (Impoundment Act) channels presidential authority to decline to expend appropriated funds.92 It responded to President Nixon’s expansive use of impoundment.93 Congress had no trouble rejecting Nixon’s claims despite a long history of such impoundments.94 While the Miscellaneous Receipts Act and the Anti-Deficiency Act appear to have succeeded, the Impoundment Act has a more mixed record. While the Supreme Court endorsed legislative constraints on presidential impoundment,95 President Gerald Ford increased impoundments through creative interpretations of the law.96 But two decades later, Congress concluded the executive had too little discretionary spending authority and expanded it by statute.97 Moreover, statutory regulation of the purse furnishes a tool for judicial influence over the executive. Judicial action in turn magnifies congressional influence. A recent study of taxation litigation finds evidence that the federal courts interpret fiscal laws in a more progovernment fashion during military engagements supported by both Congress and the White House than in the course of unilateral executive military entanglements.98 Although the resulting effect is hard to quantify, the basic finding of the study suggests that fiscal statutes trench on executive discretion not only directly, but also indirectly via judicially created incentives to act only with legislative endorsement.99 To be sure, a persistent difficulty in debates about congressional efficacy, and with some of the claims advanced in The Executive Unbound, is that it is unclear what baseline should be used to evaluate the outcomes of executive-congressional struggles. What counts, that is, as a “win” and for whom? What, for example, is an appropriate level of legislative control over expenditures? In the examples developed in this Part, I have underscored instances in which a law has been passed that a President disagrees with in substantial part, and where there are divergent legislative preferences reflected in the ultimate enactment. I do not mean to suggest, however, that there are not alternative ways of delineating a baseline for analysis.100 In sum, there is strong evidence that law and lawmaking institutions have played a more robust role in delimiting the bounds of executive discretion over the federal sword and the federal purse than The Executive Unbound intimates. Congress in fact impedes presidential agendas. The White House in practice cannot use presidential administration as a perfect substitute. Legislation implementing congressional control of the purse is also a significant, if imperfect, tool of legislative influence on the ground. This is true even when Presidents influence the budgetary agenda101 and agencies jawbone their legislative masters into new funding.102 If Congress and statutory frameworks seem to have such nontrivial effects on the executive’s choice set, this at minimum implies that the conditions in which law matters are more extensive than The Executive Unbound suggests and that an account of executive discretion that omits law and legal institutions will be incomplete.

## 2NC---Link---Congress

Key to Iran—they are watching interbranch relations—

Keck, associate editor at The Diplomat, 9/20/2013

(Zachary, “What Iran Really Learned from the Syrian Crisis,” http://thediplomat.com/the-editor/2013/09/20/what-iran-really-learned-from-the-syrian-crisis/)

Make no mistake; Iranian leaders are paying close attention to the domestic dynamics of U.S. policymaking. Since Obama first took office in January 2009, Iranian leaders questioned whether the president had the ability to deliver domestically on a deal with Iran. For example, in response to Obama’s Nowruz greeting in March 2009, Khamenei acknowledged Obama’s stated desire to change the U.S.-Iranian relationship and then said: “I would like to say that I do not know who makes decisions for America, the president, the congress, behind the scene elements?” Later in the speech, he returned to this point, “I advise the American officials, whoever is the decision maker in America, whether the president, the congress or others.” Then, last year, Iranian officials reportedly wanted to defer negotiations until after the U.S. presidential election because they did not believe that a diplomatic deal would be honored by Obama’s successor if the president lost reelection.