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Restrictions are prohibitions on authority—the aff is not

**Schiedler-Brown ‘12**

Jean, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb. In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment. Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

**Prefer it:**

**1. Topic coherence – the core controversy is what war powers the executive has, not how it must use them – key to clash and literature**

**2. Bidirectional – they allow the aff to endorse the status quo – Congressional oversight and approval become topical**

**3. Limits – hundreds of insignificant conditions Congress could impose**

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

## off

The aff relies on the securitization of executive excess to justify their legal intervention – assuming the law safeguards democracy obfuscates juridical violence and creates the conditions for endless warfare

John Morrissey, Lecturer in Political and Cultural Geography, National University of Ireland, Galway; has held visiting research fellowships at University College Cork, City University of New York, Virginia Tech and the University of Cambridge. 2011, “Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror,” Geopolitics, Volume 16, Issue 2, 2011

In the ‘biopolitical nomos’ of camps and prisons in the Middle East and elsewhere, managing detainees is an important element of the US military project. As CENTCOM Commander General John Abizaid made clear to the Senate Armed Services Committee in 2006, “an essential part of our combat operations in both Iraq and Afghanistan entails the need to detain enemy combatants and terrorists”.115 However, it is a mistake to characterize as ‘exceptional’ the US military’s broader biopolitical project in the war on terror. Both Minca’s and Agamben’s emphasis on the notion of ‘exception’ is most convincing when elucidating how the US military has dealt with the ‘threat’ of enemy combatants, rather than how it has planned for, legally securitized and enacted, its ‘own’ aggression against them. It does not account for the proactive juridical warfare of the US military in its forward deployment throughout the globe, which rigorously secures classified SOFAs with host nations and protects its armed personnel from transfer to the International Criminal Court. Far from designating a ‘space of exception’, the US does this to establish normative parameters in its exercise of legally sanctioned military violence and to maximize its ‘operational capacities of securitization’.

A bigger question, of course, is what the US military practices of lawfare and juridical securitization say about our contemporary moment. Are they essentially ‘exceptional’ in character, prompted by the so-called exceptional character of global terrorism today? Are they therefore enacted in ‘spaces of exceptions’ or are they, in fact, simply contemporary examples of Foucault’s ‘spaces of security’ that are neither exceptional nor indeed a departure from, or perversion of, liberal democracy? As Mark Neocleous so aptly puts it, has the “liberal project of ‘liberty’” not always been, in fact, a “project of security”?116 This ‘project of security’ has long invoked a powerful political dispositif of ‘executive powers’, typically registered as ‘emergency powers’, but, as Neocleous makes clear, of the permanent kind.117 For Neocleous, the pursuit of ‘security’ – and more specifically ‘capitalist security’ – marked the very emergence of liberal democracies, and continues to frame our contemporary world. In the West at least, that world may be endlessly registered as a liberal democracy defined by the ‘rule of law’, but, as Neocleous reminds us, the assumption that the law, decoupled from politics, acts as the ultimate safeguard of democracy is simply false – a key point affirmed by considering the US military’s extensive waging of liberal lawfare. As David Kennedy observes, the military lawyer who “carries the briefcase of rules and restrictions” has long been replaced by the lawyer who “participate[s] in discussions of strategy and tactics”.118

The US military’s liberal lawfare reveals how **the rule of law is simply another securitization tactic in liberalism’s ‘pursuit of security’;** a pursuit that paradoxically eliminates fundamental rights and freedoms in the ‘name of security’.119 This is a ‘liberalism’ defined by what Michael Dillon and Julian Reid see as a commitment to waging ‘biopolitical war’ for the securitization of life – ‘killing to make live’.120 And for Mark Neocleous, (neo)liberalism’s fetishization of ‘security’ **– as both a discourse and a technique of government** – has resulted in a world defined by anti-democratic technologies of power.121 In the case of the US military’s forward deployment on the frontiers of the war on terror – and its juridical tactics to secure biopolitical power thereat – this has been **made possible by constant reference to a neoliberal ‘project of security’** registered in a language of ‘endless emergency’ to ‘secure’ the geopolitical and geoeconomic goals of US foreign policy.122 The US military’s continuous and indeed growing military footprint in the Middle East and elsewhere can be read as a ‘permanent emergency’,123 the new ‘normal’ in which geopolitical military interventionism and its concomitant biopolitical technologies of power are necessitated by the perennial political economic ‘need’ to securitize volatility and threat.

Conclusion: enabling biopolitical power in the age of securitization

“Law and force flow into one another. We make war in the shadow of law, and law in the shadow of force” – David Kennedy, Of War and Law 124

Can a focus on lawfare and biopolitics help us to **critique our contemporary moment’s proliferation of practices of securitization** – practices that appear to be primarily concerned with coding, quantifying, governing and anticipating life itself? In the context of US military’s war on terror, I have argued above that it can. If, as David Kennedy points out, the “emergence of a global economic and commercial order has amplified the role of background legal regulations as the strategic terrain for transnational activities of all sorts”, this also includes, of course, ‘warfare’; and for some time, the US military has recognized the “opportunities for creative strategy” made possible by proactively waging lawfare beyond the battlefield.125 As Walter Benjamin observed nearly a century ago, at the very heart of military violence is a “lawmaking character”.126 And it is this ‘lawmaking character’ that is integral to the biopolitical technologies of power that secure US geopolitics in our contemporary moment. US lawfare **focuses “the attention of the world on this or that excess**” whilst simultaneously arming “the most heinous human suffering **in legal privilege”,** redefining horrific violence as “collateral damage, self-defense, proportionality, or necessity”.127 It involves a mobilization of the law that is precisely channelled towards “**evasion**”, securing 23 classified Status of Forces Agreements and “offering at once the experience of safe ethical distance and careful pragmatic assessment, while **parcelling out responsibility, attributing it, denying it – even sometimes embracing it – as a tactic of statecraft and war”.128**

Since the inception of the war on terror, the US military has waged incessant lawfare to legally securitize, regulate and empower its ‘operational capacities’ in its multiples ‘spaces of security’ across the globe – whether that be at a US base in the Kyrgyz Republic or in combat in Iraq. I have sought to highlight here these tactics by demonstrating how the execution of US geopolitics relies upon a proactive legal-biopolitical securitization of US troops at the frontiers of the American ‘leasehold empire’. For the US military, legal-biopolitical apparatuses of security enable its geopolitical and geoeconomic projects of security on the ground; they plan for and **legally condition the ‘milieux’ of military commanders**; and in so doing they **render operational** **the pivotal spaces of overseas intervention of contemporary US national security conceived** in terms of ‘**global governmentality’**.129 In the US global war on terror, it is lawfare that facilitates what Foucault calls the “biopolitics of security” – when life itself becomes the “object of security”.130 For the US military, this involves the eliminating of threats to ‘life’, the creating of operational capabilities to ‘make live’ and the anticipating and management of life’s uncertain ‘future’.

Some of the most key contributions across the social sciences and humanities in recent years have divulged how discourses of ‘security’, ‘precarity’ and ‘risk’ function centrally in the governing dispositifs of our contemporary world.131 In a society of (in)security, such discourses have a profound power to invoke danger as “requiring extraordinary action”.132 In the ongoing war on terror, registers of emergency play pivotal roles in the justification of military securitization strategies, where ‘risk’, it seems, has become permanently binded to ‘securitization’. As Claudia Aradau and Rens Van Munster point out, the “perspective **of risk management”** seductively effects practices of military securitization to be seen as necessary, legitimate and indeed therapeutic.133 US tactics of liberal lawfare in the long war – the conditioning of the battlefield, the sanctioning of the privilege of violence, the regulating of the conduct of troops, the interpreting, negating and utilizing 24 of international law, and the securing of SOFAs – are vital security dispositifs of a broader ‘risk- securitization’ strategy involving the deployment of liberal technologies of biopower to “manage dangerous irruptions in the future”.134 It may well be fought beyond the battlefield in “a war of the pentagon rather than a war of the spear”,135 but it is lawfare that ultimately enables the ‘toxic combination’ **of US geopolitics and biopolitics defining the current age of securitization.**

The alternative is a rigorous scrutiny of their legalist politics - disrupting their juridical frame is key to solve

Aziz Rana, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, July 2012, “NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?,” 44 Conn. L. Rev. 1417

If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very **dramatic** political and **legal pathologies.** In recent years, the country has witnessed a variety of security crises built on the basic failure of ‘expertise.’195 At present, part of what obscures this fact is the very culture of secret information **sustained by the modern security concept**. Today, it is commonplace for government officials to leak security material about terrorism or external threat to newspapers as a method of shaping the public debate.196 These ‘open’ secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making. But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm – the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. **This reality highlights the importance of approaching security information with far** greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’ – marked fundamentally by epistemological uncertainty as opposed to verifiable fact – than policymakers admit.

If the objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this meahn for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars-emphasizing new statutory frameworks or greater judicial assertiveness-is that they **mistake a question of politics for one of law.** In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants-danger too complex for the average citizen to comprehend independently-it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that it remains unclear which popular base exists in society to raise these questions. Unless such a base fully emerges, we can expect our prevailing security arrangements to become ever more entrenched.

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Sanctions push has run aground, but GOP is strategizing to revive the push

Greg Sargent, WaPo, 2/3/14, Another big blow to the Iran sanctions bill, www.washingtonpost.com/blogs/plum-line/wp/2014/02/03/another-big-blow-to-the-iran-sanctions-bill/

**The push for a new Iran sanctions bill may have stalled in the Senate, but** it’s still alive and kicking in the House, where **leaders are telling members such a measure could still be considered** this year. Indeed, proponents of more sanctions appear to be clinging to the hope that if something passes the House with broad bipartisan support, it could pressure the Senate to act. But here’s something that could help block that from happening — in the process delivering yet another big blow to the prospects of a new Iran sanctions measure. I’m told more than 70 House Dems — from a diverse ideological background — have now signed a new letter coming out against any new sanctions measure and calling for diplomacy to be given a chance. This represents the first public statement from House Dems **en masse** against the measure and for diplomacy, matching what we’ve been seeing in the Senate. Here’s the text, which hasn’t yet been released but was sent over by a source: Dear Mr. President: As Members of Congress — and as Americans — we are united in our unequivocal commitment to prevent Iran from obtaining a nuclear weapon. The proliferation of nuclear weapons in the Middle East would threaten the security of the United States and our allies in the region, particularly Israel. The ongoing implementation of the Joint Plan of Action agreed to by Iran and the “P5+1 nations last November increases the possibility of a comprehensive and verifiable international agreement. We understand that there is no assurance of success and that, if talks break down or Iran reneges on pledges it made in the interim agreement, Congress may be compelled to act as it has in the past by enacting additional sanctions legislation. At present, however, we believe that Congress must give diplomacy a chance. A bill or resolution that risks fracturing our international coalition or, worse yet, undermining our credibility in future negotiations and jeopardizing hard-won progress toward a verifiable final agreement, must be avoided. We remain wary of the Iranian regime. But we believe that robust diplomacy remains our best possible strategic option, and we commend you and your designees for the developments in Geneva. Should negotiations fail or falter, nothing precludes a change in strategy. But we must not imperil the possibility of a diplomatic success before we even have a chance to pursue it. Dem Rep. Lloyd Doggett — a senior member of the House Ways and Means Committee who spearheaded this letter along with Dem Rep. David Price – tells me in a statement: “Iranian hard liners may ultimately obstruct a meaningful permanent agreement, but Congress should not give them a pretext for doing so. The support for this letter from a broad and growing coalition of more than 70 Members sends a strong signal that Democrats stand for peace and diplomacy.” Aides who have seen the letter tell me it’s been signed by some prominent Jewish Democrats and at least one member of the Dem leadership (James Clyburn). This comes after former Secretary of State Hillary Clinton (belatedly) weighed in against the sanctions bill, another blow to its prospects. While it does appear that the push for a sanctions vote has run aground, **it’s worth reiterating** that if something goes wrong in the talks, those who want a vote — including **Republicans** who **appear to be using this as a way to divide Dems**, **and** Democrats who refuse to be swayed by the administration’s insistence that a vote could derail diplomacy — **could have a hook to** revive their push. Eric Cantor is still said to want to move an Iran sanctions bill, and Dems have been wary of the possibility that Steny Hoyer — the number two Dem in the House — could join Cantor’s effort, thus giving it bipartisan legitimacy and perhaps leading more Dems to support it. The new letter from around six dozen House Dems opposing such a move could make that outcome that much less likely — particularly if it continues to pick up more signatures.

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

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

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

The GOP will exploit this to flip Democratic votes on Iran—causes sanctions

Josh Rogin, Daily Beast, 2/5/14, GOP Will Force Reid to Save Obama’s Iran Policy—Over and Over Again, www.thedailybeast.com/articles/2014/02/05/gop-will-force-reid-to-save-obama-s-iran-policy-over-and-over-again.html

Dozens of Republican senators joined Wednesday to demand that Harry Reid allow a floor vote on a new Iran sanctions bill. If he doesn’t, they are planning to make his life miserable.

The Republican Senate caucus is planning to use every parliamentary trick in the book to push Senate Majority Leader Harry Reid to allow a floor vote on a new Iran sanctions bill that the Obama administration strenuously opposes. The Obama White House has succeeded in keeping most Democrats in line against supporting quick passage of the “Nuclear Weapon Free Iran Act,” which currently has 59 co-sponsors, including 13 Democrats. Reid has faithfully shelved the bill, pending the outcome of negotiations between Iran and the world’s major powers—the so-called “P5+1.” But tomorrow, Republicans plan to respond by using an array of floor tactics—including bringing up the bill and forcing Reid to publicly oppose it—as a means of putting public pressure on Reid and Democrats who may be on the fence. “Now we have come to a crossroads. Will the Senate allow Iran to keep its illicit nuclear infrastructure in place, rebuild its teetering economy and ultimately develop nuclear weapons at some point in the future?” 42 GOP senators wrote in a letter sent to Reid late Wednesday and obtained by The Daily Beast. “The answer to this question will be determined by whether you allow a vote on S. 1881, the bipartisan Nuclear Weapon Free Iran Act, which is cosponsored by more than half of the Senate.” The GOP letter calls on Reid to allow a vote on the bill during the current Senate work period—in other words, before the chamber’s next recess. Senate GOP aides said that until they get a vote, **GOP senators are planning to** use a number of procedural tools at their disposal to **keep this issue** front and center **for Democrats**. Since the legislation is already on the Senate’s legislative calendar, any senator can bring up the bill for a vote at any time and force Democrats to publicly object. Senators can also try attaching the bill as an amendment to future bills under consideration. Senate Minority Leader Mitch McConnell has been a harsh critic of Reid’s shelving of the bill, so he could demand a vote on it as a condition of moving any other legislation. If those amendments are blocked by Reid, Senators can then go to the floor and make speech after speech calling out Reid for ignoring a bill supported by 59 senators—and calling on fence-sitting Democrats to declare their position on the bill. “This letter is a final warning to Harry Reid that if Democrats want to block this bipartisan legislation, they will own the results of this foreign policy disaster,” one senior GOP senate aide said. The Republican senators believe, based on recent polls, that the majority of Americans support moving forward with the Iran sanctions bill now. They also believe that if Reid did allow a vote, the bill would garner more than the 59 votes of its co-sponsors and that Democrats vulnerable in 2014 races would support it, **pushing the vote total past a veto-proof two-thirds supermajority**.

New sanctions cause negotiation collapse and Middle East War

Rachel Kleinfeld, Carnegie Endowment For International Peace, 1/31/14, Sanctions Could Disrupt Negotiations With Iran, carnegieendowment.org/2014/02/03/sanctions-could-disrupt-negotiations-with-iran/h02v

Facing skyrocketing inflation, a collapsing currency and a sudden loss of imported goods, Iranians voted last year to kick out Mahmoud Ahmadinejad and elected a government they thought might jump-start their economy.

The new government of President Hassan Rouhani is not "moderate" - but it is practical**. It would like a nuclear weapon, but it wants economic relief more**. Rouhani knows his only bargaining chip to end sanctions is to stop the nuclear weapons program.

But the Rouhani government is on a short leash. Iran's supreme leader, Ali Khamenei, holds the ultimate power - and he is skeptical that a deal can be struck. Hardliners in Iran who benefit from sanctions are against it, as are many in the U.S. Congress. Khamenei needs to walk a careful line: If he looks like he's capitulating too much, then he'll face domestic backlash. He knows he has only a few months to deliver.

That is why the congressional threat of more sanctions - even if they take effect only if the deal fails - is so dire. Hardliners and Khamenei will take such legislation as proof that the United States wants regime change, not an end to Iran's nuclear program. Rouhani himself has said that if sanctions legislation passes, negotiations are off.

So why have more than 50 senators signed up as co-sponsors of new sanctions? Some do want regime change. So would we all - Iran is a noxious, terrorist-supporting, human-rights-destroying government. But regime change wouldn't end the security threat. Even the "Green Movement" that marched for democracy a few years ago wanted to obtain a nuclear weapon.

Others think that sanctions got Iran to the negotiating table, so more sanctions will push them even harder. This is a miscalculation. Negotiations have begun. Iran has allowed nuclear inspectors to seal up their nuclear plants. More sanctions will simply seem like bad faith on our part. They also could provide the excuse other countries are looking for to break with the sanctions regime. Bans on oil imports are causing real economic hardship to allies such as Japan who depended on Iran for much of their energy, and export bans are hurting European companies desperate to restart growth. If the United States looks like the bad guy, these governments are likely to give in to domestic pressure and reduce their sanctions against Iran.

Finally, the American Israel Public Affairs Committee is lobbying Congress hard with the message that a vote against sanctions is a vote against Israel. To me, as a Jew and a Zionist, this is not only hogwash: It is allowing an unelected American nongovernmental organization to wrap itself in the Israeli flag while suggesting actions that threaten Israel.

**If we cannot end Iran's nuclear program with diplomacy, we will end it through war**. Two years ago, the national security organization I founded worked with Pentagon planners on a simulation game to look at what would happen after the United States bombed Iran. In all the possible scenarios, Iran was likely to do one thing: attack Israel to open up a two-front war and further drag America into conflict in the Middle East. A vote for sanctions at this point is a vote for war - and for Iranian missile attacks on Israel.

Nuclear war

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.

## off

The United States Supreme Court should rule that the president lacks authority to use remote controlled aerial vehicle targeted killings outside of geographic locations housing active American combat troops.

**The CP resolves legal codification and clarification of conflict authority**

Jameel Jaffer, human rights and civil liberties attorney who is deputy legal director of the American Civil Liberties Union, 13 [“JUDICIAL REVIEW OF TARGETED KILLINGS,” Harvard Law Review, April, 126 Harv. L. Rev. F. 185]

The argument for some form of judicial review is compelling, not least because such review would clarify the scope of the government's authority to use lethal force. The targeted killing program is predicated on sweeping constructions of the 2001 Authorization for Use of Military Force (AUMF) and the President's authority to use military force in national self-defense. The government contends, for example, that the AUMF authorizes it to use lethal force against groups that had nothing to do with the 9/11 attacks and that did not even exist when those attacks were carried out. It contends that the AUMF gives it authority to use lethal force against individuals located far from conventional battlefields. As the Justice Department's recently leaked white paper makes clear, the government also contends that the President has authority to use lethal force against those deemed to present "continuing" rather than truly imminent threats.¶ These claims are controversial. They have been rejected or questioned by human rights groups, legal scholars, federal judges, and U.N. special rapporteurs. **Even enthusiasts of the drone program have become anxious about its legal soundness**. ("People in Washington need to wake up and realize the legal foundations are crumbling by the day," Professor Bobby Chesney, a supporter of the program, recently said.) **Judicial review could clarify the limits on the government's legal authority and** supply a degree of legitimacy **to actions taken within those limits.**¶ [\*186] It could also encourage executive officials to **observe these limits**. Executive officials would be less likely to exceed or abuse their authority if they were required to defend their conduct to federal judges. Even Jeh Johnson, the Defense Department's former general counsel and a vocal defender of the targeted killing program, acknowledged in a recent speech that judicial review could add "rigor" to the executive's decisionmaking process. In explaining the function of the Foreign Intelligence Surveillance Court, which oversees government surveillance in certain national security investigations, executive officials have often said that even the mere prospect of judicial review deters error and abuse.

## off

Codifying status quo policy restrictions on location of strikes is sufficient to collapse effective counterterror—causes safe havens and turns the case.

Corn 9/30/13

Geoffrey, The Presidential Research Professor of Law at South Texas College of Law in Houston Texas, and a Lieutenant Colonel (Retired), U.S. Army. His Army career included service as the Army’s senior law of war expert advisor: tactical intelligence officer in Panama; supervisory defense counsel for the Western United States; Chief of International Law for US Army Europe; Professor of International and National Security Law at the US Army Judge Advocate General’s School; and Chief Prosecutor for the 101st Airborne Division. Professor Corn has been an expert witness at the Military Commission in Guantanamo, the International Criminal Tribunal for the Former Yugoslavia, and in federal court. He is the lead author of The Law of Armed Conflict: An Operational Perspective, and The Laws of War and the War on Terror, and a co-author of Principles of Counter-Terrorism Law. “The Military Component of Counter-Terror Operations”

Twelve years after the September 11th terrorist attacks, however, highly informed experts both within and outside the government call into question the continuing validity of this characterization. Within the U.S. government, the debate has largely shifted from if the struggle against al Qaeda may properly be classified as an armed conflict, to whether that classification remains factually supportable. The President’s own statements that al Qaeda ‘core’ has been decimated and that U.S. actions have disabled its capacity to conduct large scale attacks on U.S. interests have fueled this debate. Additional uncertainty has resulted from administration statements regarding its **policy** towards executing future operations against al Qaeda. **Some argue** that recent administration statements regarding operations conducted beyond the **geography** of the ongoing hostilities in Afghanistan indicate a transition from conduct of hostilities to law enforcement norms: limiting attacks to high ranking al Qaeda officials based on a determination of imminent threat and employing deadly combat power only after exhausting less hostile means. **However**, these arguments **misconstrue** statements of policy restraint for declarations of a shift in **legal interpretation**. The imposition of **policy-based constraints** on LOAC authorities is certainly unremarkable. This is a routine process that occurs at **every level** of military operations – strategic, operational, and tactical – normally reflected in mission specific rules of engagement. However, the President and his administration have not always been clear on the basis for the self-imposed limitations on attack authority. This has only served to fuel arguments that continuing to classify counter-terror military operations against al Qaeda is simply invalid. But beyond the interesting debate over whether transnational armed conflict is or is not consistent with the 1949 law triggering articles of the Conventions, it is equally important to assess the pragmatic merit of treating the struggle with al Qaeda as an armed conflict. This assessment must begin with a candid acknowledgment of the binary legal authority framework applicable to any government response to a terrorist threat. Outside the context of armed conflict, government forces – to include military forces – **must** **conduct operations pursuant to rules that comply with a pure human rights based response framework**. This means that the methods and means used to disable the transnational terrorist threat **must** mirror those utilized in normal peacetime law enforcement operations: deadly force may **only** be employed in response to an imminent threat of death or grievous bodily harm, deadly force may employed only as a measure of last resort, and captured terrorist operatives must be promptly charged and brought to trial before a civilian criminal court, and released if prosecution is not feasible or trial results in acquittal. As noted above, LOAC based response authority is far more robust. This binary operational response framework arguably reveals why the United States has and continues to characterize the struggle against al Qaeda as an armed conflict: the nature of the threat—an organized, militarily armed and trained force under the direction and control of hostile leadership that had engaged in a series of escalating deadly attacks—cannot be efficiently and effectively addressed pursuant to a pure law enforcement legal framework. According to both Presidents Bush and Obama (and perhaps even Clinton, although not nearly as the result of overt evidence), al Qaeda was and **remains a threat** at a level of organization, capability, and magnitude **justifying this conclusion**. Both the legislative and judicial branches have endorsed this conclusion. Furthermore, the transnational nature of the threat and its process of ‘metastycizing’ by expanding to affiliates in areas beyond it’s original safe haven in Afghanistan necessitate an expansive geographic scope of operations in order to ‘take the fight’ to the enemy and deny the enemy functional geographic safe haven. Reverting back to a pure law enforcement response will therefore **seriously undermine** the efficacy of U.S. counter-terror operations, and is **not**, at this juncture, **legally compelled**. While it is almost certainly true that an enemy like al Qaeda will never be brought to total submission in the way a more conventional enemy can be, it is also clear that the meaning of ‘defeat’ in the context of counter-terror operations – the ultimate military objective when fighting any enemy **– is not analogous** **to the meaning of that term when fighting a conventional enem**y. Defeat of a terrorist threats, like that posed by al Qaeda, is normally achieved by disrupting and disabling the efficacy of their operations, not be destruction of all capability. Indeed, a disruptive effect is likely the only feasible operational and strategic objective a state can hope to achieve against such a threat (consider the Israeli experience as an example). Maximizing operational and tactical flexibility to strike high value terrorist targets – command, control, and communications; logistics; training centers; access to weapons – is essential to achieving this disruptive effect. Limiting response **authority** to law enforcement norms would undermine the ability of the United States to achieve this strategic objective, and would **cede the initiative** **to the terrorist enemy by providing them** functional immunity **unless** **and until** their efforts to attack the United States and our interests reach a point of **law enforcement** imminence. While the overall effectiveness of Article III prosecutions for terrorist related offenses indicates that abandoning the armed conflict characterization would be less significant with regard to post capture incapacitation than for pre-capture disruption, there always remains the possibility that a captured terrorist operative cannot be effectively prosecuted. In such cases, should the government possess compelling evidence that the individual represents an ongoing threat of terrorist activities – even if that evidence is incompetent for use at trial – release seems illogical. This, however, **would be the result outside the context of armed conflict**. None of this is intended to suggest that the armed conflict characterization makes executing counter-terror operations ‘easier.’ There are and will remain highly complex issues even within this framework, to include how to define terrorist belligerent operative, the permissible geographic scope of counter-terror military operations, when captured operatives should be subjected to trial by civilian courts, where such captives should be detained, and if, when, and why the expanded scope of LOAC attack authority should be restricted as a matter of policy. In our view, the limitations on LOAC authority implemented to date by President Obama **do not indicate** an inherent invalidity of the armed conflict response framework, but that this response authority must always be adjusted in response to policy, diplomatic, and political considerations. **In contrast**, a total abandonment of LOAC authority would produce a significant disruptive effect **on our counter-terror operations, not on the enemy**.

Broad geographical reach sustains AQ and allows WMD attack—constant global attrition key to victory

Pressman, assistant professor of political science – U Connecticut, ‘7

(Jeremy, “Rethinking Transnational Counterterrorism: Beyond a National Framework,” The Washington Quarterly, 30:4 pp. 63–73)

The distinction between national and transnational terrorist groups largely stems from a fundamental difference in geographic scope: transnational terrorist objectives are not tied to a single state. Although national organizations are not easy to tame or defeat, the range of options is even more circumscribed in dealing with transnational ones because their agendas and fields of play are much larger. National organizations may use the world as a stage, as Palestinian terrorist organizations have done, but their objectives are defined by a national territorial home, as in the case of the IRA in Ireland, the Palestine Liberation Organization (PLO) in Palestine, and the Liberation Tigers of Tamil Eelam in Sri Lanka. If the national territorial home disappeared, the organization would lose its raison d’etre. Contrast that with al Qaeda or any worldwide movement. These groups are not bound by any one country, and they aspire to have a regional, if not global, impact. Al Qaeda would like to topple regimes across the Middle East as well as send home the world’s lone superpower, the United States. These transnational groups may be based in many countries, whether simultaneously or moving from one to the next. A non-national group could operate in North America, Europe, East Asia, and increasingly in cities around the world; it could coordinate and launch attacks from almost anywhere. Technological advances, especially the low cost of communications and transportation, have opened up many new avenues for clandestine operators. These changes empower the individual or small groups. At the same time, plenty of weak governments with only a tenuous hold on their territory are situated around the globe. Failed states and other gray zones offer additional spaces and opportunities for transnational terrorist organizations. Globalizing forces are seen at work in the leadership of al Qaeda’s core group, even leaving aside the many organizations inspired by or loosely affiliated with it. Al Qaeda is led by a Saudi, Osama bin Laden, with an Egyptian, Ayman al-Zawahiri, as the second in command. Khalid Sheikh Muhammad, a key planner of the September 11, 2001, attacks and others, is Pakistani. The late Abu Musab al-Zarqawi, leader of al Qaeda in the Iraqi theater, was Jordanian. Because transnational organizations are networked and distributed, they are less hierarchical and can survive without central command and control. Analysts Steven Simon and Daniel Benjamin have called them “non-group groups.”3 Furthermore, Daniel Byman suggested that bin Laden’s world view of confronting the United States and legitimizing violent attacks “has gained remarkable currency.”4 As a result, shutting down al Qaeda in Afghanistan does not shut down al Qaeda, especially now that it has an established track record in the international arena of successfully attacking the United States. Fundraising, recruitment, indoctrination, and training may take place in many countries simultaneously for transnational groups. New locales such as Iraq or the tribal regions of Pakistan can replace old bases of operation such as Afghanistan. Britons travel to Pakistan for inspiration and perhaps guidance and training. Militants train in Iraq and then head to Algeria, Jordan, or Saudi Arabia for operations. Iraq has emerged as the latest training ground, as Barry Posen explains: “Indeed, the [United States] has inadvertently created in Anbar a Darwinian school for insurgents and terrorists. They learn from fighting the U.S. Marine Corps; the best fighters survive to train others; the techniques are honed all the time; and they are spread throughout Iraq.”5 Globalization, technological change, and the growth of institutional and informal interactions across international borders have created fertile ground for many kinds of transnational activity. Transnational terrorists draw on some of the same processes, such as the growing ease of communications and travel, which allow farmers, environmentalists, or trade unionists to resist international financial institutions, multinational corporations, or political hegemons. These abstract global processes manifest themselves in everyday technology such as cell phones, laptop computers, e-mail, and Web sites. What is clearly different from other protestors is how the terrorist organizations choose to utilize the new technologies and linkages.6 The cyber-attacks against Estonian Web sites in April–May 2007 provide a recent example of this transnational phenomenon. In the initial stages, the identity of the attackers was unknown, although clearly computers around the world were being used, often unwittingly, to attack. If the attacks in Estonia were the work only of Russians in Russia, Estonia, and perhaps elsewhere, it would be an example of a national group using transnational means. If the Russians were joined by hackers and other malicious computer thrill-seekers from around the world, however, the case becomes one of a transnational group using transnational means. Although these transnational means are also available to national terrorist organizations, national networks are less likely to seek mass casualty attacks or employ weapons of mass destruction. They are tied to one territorial unit and would be wary of causing mass destruction to that territory. If ETA exploded a nuclear bomb in Spain, for example, the nuclear fallout would likely affect the Basque region as well as the target. National organizations that seek to capture the central state have even less leeway than secessionist movements such as ETA. The PLO, for example, could not poison Jerusalem, and the IRA could not use weapons of mass destruction in Belfast. Furthermore, in the past most national organizations limited the type of violence used to attract political support from third parties rather than alienate them. National organizations want help in their cause in order to pressure their state adversary. It is difficult to imagine transnational terrorists warning police of a bomb, as the IRA often did in London. A bomb with minimal or no casualties could draw attention to the group and demonstrate its coercive potential without evoking sympathy for victims and thereby provoking a public backlash. Even when national organizations moved to a wider geographic scope, such as the PLO’s international terrorism of the 1970s, the fact that they were seeking international political support conditioned the nature of their operations. In contrast, al Qaeda could destroy Washington or another major target without physically harming its support and membership base because their battles do not take place in confined geographic and demographic spaces. On September 11, 2001, al Qaeda leveled the World Trade Center without fear of harming its own supporters and with the hope that the United States would think twice about remaining engaged in the Middle East. To some extent, transnational groups lack a territory populated by civilians that is vulnerable to counterattack. They thus can be more reckless. For this reason, moreover, the danger of an escalatory spiral is high, as they seek both to provoke counterattacks and to prove that great powers are vulnerable. They are playing to many audiences across many countries, some of whom they want to antagonize. They can afford to alienate some third parties and to wreak havoc on some territories. Al Qaeda welcomed being defined as enemy number one of the world’s only superpower. This designation has brought problems and U.S. attacks, but it has also brought prestige, widespread media coverage, new recruits, and funding. Whereas geography shapes many transnational-national differences, factors such as ideology and state sponsorship are less meaningful in differentiating between the two types of terrorist groups. First, either type may embrace an extreme ideology. Many Israelis, for example, see Hamas as quite radical. “Extreme” is often associated with the use of violence and the pursuit of seemingly unattainable goals; both aspects may be linked either to national or transnational organizations. Second, either may seek state sponsorship, although transnational organizations could survive and adapt more easily if they lose state support. The idea that national organizations would not adapt easily is difficult to prove definitively, but some cases are suggestive. Hizballah’s military capabilities and position vis-à-vis Israel, for example, would be greatly diminished if Iran and Syria cut off shipments of missiles and other arms. National terrorist groups would still have grievances, but their capabilities for action would be weaker. Turning to a transnational example, al Qaeda was dealt a setback when the Taliban government in Afghanistan was ousted by U.S.-led forces in late 2001. Although the Taliban have made a partial comeback, al Qaeda has also come to rely on supportive elements in Pakistan. Despite this need to adapt, today’s modified al Qaeda is arguably as strong or stronger than it was pre–September 11. This ability to adapt mitigates many potential policies that squeeze sponsoring or host states. Policy Implications Transnational terrorism’s adaptability calls for a reexamination of U.S. counterterrorism policies. The standard tools of sanctions, negotiations, democratization, poverty remediation, and deterrence decrease in value when their target is not limited to a single state. Sanctions generally aim to curtail the financial and commercial flows of the state sponsoring or harboring terrorism. Over the past few decades, much U.S. counterterrorism legislation has been directed against state sponsors. The Export Administration Act of 1979, for example, bars aid to those countries on the U.S. terrorism list. Transnational terrorist organizations render this tool somewhat irrelevant. It is still costly for transnational organizations to adjust, as with al Qaeda when it lost its Taliban sponsor in Afghanistan in 2001–2002, so pressuring their allies is not meaningless. Yet, transnational groups’ adaptation is neither implausible nor prohibitively costly. On a related note, some countries in which transnational terrorists operate may have both helpful and adversarial factions, complicating a decision to sanction. The United States is working with the Pakistani government, for example, even as elements of that government and of nongovernmental groups in Pakistan facilitate the presence of al Qaeda leaders and members in Pakistan. Washington can hardly afford to break with Islamabad given its crucial importance in the war against terrorism. Yet, the Pakistani government fears being seen as merely an American stooge. Because of these tricky domestic politics, it has chosen not to crack down on allies of al Qaeda to the degree the United States would like. In theory, transnational groups may also be aware of bureaucratic schisms or the potential for such splits and try to use them to their advantage, seeking out organizations or agencies that share their concerns. Some sanctions do focus on organizations rather than governments. The United States maintains a list of foreign terrorist organizations subject to financial and travel restrictions. The list includes groups such as Aum Shinrikyo, ETA, Hamas, Jaish-e-Mohammed, and al Qaeda. For these sanctions to be effective, the organization has to be structurally coherent and make some explicit use of regular economic markets. If an organization became so fractured that its actions seemed like the activity of individuals or its activities were already part of the black market, sanctions would be less likely to work. It appears, for example, that many of the Britons involved in attacks in 2005 and 2007 in the United Kingdom were either not on anyone’s radar screen or were just on the edge of counterterrorism efforts. If governments do not know of such individuals’ or groups’ activities, they certainly cannot enforce sanctions. Negotiations are not an option because the transnational goal is so expansive. The objectives of such groups are so broad that the national governments would have to agree to incredibly extensive and unlikely concessions. Al Qaeda seeks a U.S. withdrawal from the Middle East, for example, but it is incredibly difficult to imagine that any U.S. administration would concede, given its interests in the region and those of its allies.7 Bush has often made this very point: “[W]e’re not facing a set of grievances that can be soothed and addressed. We’re facing a radical ideology with inalterable objectives: to enslave whole nations and intimidate the world. No act of ours invited the rage of the killers—and no concession, bribe, or act of appeasement would change or limit their plans for murder.”8 That is not to say that negotiations with national organizations are easy or that the division between national and transnational on the negotiations issue is absolute. Some domestic actors will argue that national terrorist organizations are pushing for unfathomable concessions on fundamental issues. At the same time, national organizations are often pushing for divisible assets, such as a piece of territory or a share of government rather than the entire territory, political dominance, or complete ideological victory. The original goal of a national organization may not lend itself to compromise, but further amendments to that goal over time could lead in the direction of a compromise acceptable to both sides. This dynamic in national organizations is clearly demonstrated in the Israeli-Palestinian case. Israelis have balked at PLO demands for the implementation of the Palestinian right of return if that means the Palestinian refugees have the automatic right to settle in Israel. Most Israelis see that as an existential threat. The entrance of millions of Palestinian refugees into Israel would undermine, if not destroy, Israel as a Jewish state. Many Israelis, however, would accept a Palestinian state in the Gaza Strip and West Bank, even though that would require an Israeli territorial withdrawal from close to 22 percent of the land that is today Israel, Gaza, and the West Bank. Israel offered one version of such a state in 2000–2001. In short, the PLO’s refugee demand is seen as altering the very definition of Israel whereas an amended territorial withdrawal is seen as a feasible concession. Transnational groups’ provocative and deadly tactics also complicate the response of their targets because domestic politics reduce the room for maneuverability. The scale and symbolism of their attacks create domestic pressure for a major response. After the September 11 attacks, Bush could hardly have taken a low-key response against al Qaeda. A third approach to national terrorist organizations has been to reformulate the society from which the terrorists are drawn by improving its political or socioeconomic structure. The aim is to reduce support for terrorist organizations by opening up and democratizing the political system or by alleviating poverty. Even if these strategies are effective, which some scholars doubt, one would need to improve many countries to respond to transnational terrorists, in a world in which improving just one is difficult.9 Finally, supporters of transnational groups are ideologically, rather than materially, motivated. National terrorist movements may, on the other hand, provide goods and services to build a base of support. Hamas has a large social welfare network that helps its existing members and draws in new ones. Transnational terrorists cannot “buy” support as easily, as their diffuse and noninstitutionalized nature makes such a network unlikely. The absence of material incentives also makes transnational members difficult to deter. They will not become disaffected due to material loss or the threat of material loss or destruction. Al Qaeda leaders on the run have probably survived with limited comforts. The leaders want power and the victory of their ideology more than they want material gains. Although an ideology could arise that was dedicated to the pursuit of material gain or that at least saw that as a positive by-product of its other aims, this is not the case with the enemy the United States currently faces. Transnational groups’ lack of ties to a single territorial unit only compounds the difficulty in deterring them. They may have few concerns about bringing a destructive response down onto the heads of their hosts, being able as they are to shift their operations anywhere, be it another failed state or a modern metropolis with high technology and urban anonymity. The limited value of economic sanctions, negotiations, poverty alleviation, democratization, and deterrence in combating transnational terrorists leaves few options. Policymakers can go on the offensive against transnational terrorists, as the United States has done with al Qaeda, but they do not have ways of reducing the grievances, civilian casualties, and property destruction highlighted by the transnational terrorists and thus, for many, the motivation for joining in the first place. Consequently, such an offensive strategy by default actually can backfire, producing counterproductive sympathies that help transnational networks recruit more members. Ideologically motivated transnational terrorism is not easy to root out, and as a result, “the United States and other countries ... will therefore be forced to play defence against religious terrorism for some time to come. They will have to hope that broader historical developments will begin to ameliorate, rather than inflame, the grievances behind the new terrorism.”10 Even if broader historical developments transform religious terrorism, a new group could arise that embraces the same means that al Qaeda has used so successfully but is motivated by a different ideological agenda. Although the present U.S. focus on al Qaeda may lead some observers to think in religious terms, transnational terrorist organizations need not be religiously motivated by definition. One could plug in a number of antisystemic or antisuperpower ideologies, such as anarchism, neo-Marxism, or radical environmentalism, that could use the same means of resistance and confrontation with a motivation other than religion. Even if political Islam loses its appeal, the transnational terrorist model is still viable. Adjusting Expectations On September 20, 2001, Bush predicted “a lengthy campaign” that would “not end until every terrorist group of global reach has been found, stopped, and defeated.”11 Such a goal, to state the obvious, is politically more popular than claiming the objective is to limit the damage from al Qaeda and fight a lengthy war of attrition. Yet, given the intricate nature of the enemy, refining public expectations in the United States is necessary for any measure of success to be achieved. A complete victory is unlikely in the short term, but counterterrorism advances are possible, if fleeting. The idea of a “long war,” a term favored by some U.S. officials, begins to get at this notion.12 Perhaps an even better way of thinking is a war of attrition, of constant friction and skirmishes. Less technically speaking, the fight may end up looking like a game of whack-a-mole. Rather than outright victory, the best that countries countering transnational terrorists may hope for is to keep the terrorists off-balance and in constant need of repair, replenishment, and rebuilding. An ideology with mass regional or global appeal is difficult to will out of existence.

Nuclear terrorism is a potential threat

Hellman 8 (Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>)

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

## \*\*\*sovereignty

## modeling

Existing norms solve and precedent isn’t key

Anderson, professor of international law – American University, ‘13

(Kenneth, "The Case for Drones", https://www.commentarymagazine.com/articles/the-case-for-drones/)

The objection to civilian deaths draws out a related criticism: Why should the United States be able to conduct these drone strikes in Pakistan or in Yemen, countries that are not at war with America? What gives the United States the moral right to take its troubles to other places and inflict damage by waging war? Why should innocent Pakistanis suffer because the United States has trouble with terrorists? The answer is simply that like it or not, the terrorists are in these parts of Pakistan, and it is the terrorists that have brought trouble to the country. The U.S. has adopted a moral and legal standard with regard to where it will conduct drone strikes against terrorist groups. It will seek consent of the government, as it has long done with Pakistan, even if that is contested and much less certain than it once was. But there will be no safe havens. If al-Qaeda or its affiliated groups take haven somewhere and the government is unwilling or unable to address that threat, America’s very long-standing view of international law permits it to take forcible action against the threat, sovereignty and territorial integrity notwithstanding. This is not to say that the United States could or would use drones anywhere it wished. Places that have the rule of law and the ability to respond to terrorists on their territory are different from weakly governed or ungoverned places. There won’t be drones over Paris or London—this canard is popular among campaigners and the media but ought to be put to rest. But the vast, weakly governed spaces, where states are often threatened by Islamist insurgency, such as Mali or Yemen, are a different case altogether. This critique often leads, however, to the further objection that the American use of drones is essentially laying the groundwork for others to do the same. Steve Coll wrote in the New Yorker: “America’s drone campaign is also creating an ominous global precedent. Ten years or less from now, China will likely be able to field armed drones. How might its Politburo apply Obama’s doctrines to Tibetan activists holding meetings in Nepal?” The United States, it is claimed, is arrogantly exerting its momentary technological advantage to do what it likes. It will be sorry when other states follow suit. But the United States does not use drones in this fashion and has claimed no special status for drones. The U.S. government uses drone warfare in a far more limited way, legally and morally, and **entirely within the bounds of** international law. The problem with China (or Russia) using drones is that they might not use them in the same way as the United States. The drone itself is a tool. How it is used and against whom—these are moral questions. If China behaves malignantly, drones will not be responsible. Its leaders will be.

Global drone norms are impossible

McGinnis, senior professor – Northwestern Law, ‘10

(John O. 104 Nw. U. L. Rev. Colloquy 366)

It is hard to overstate the extent to which advances in robotics, which are driven by AI, are transforming the United States military. During the Afghanistan and Iraq wars, more and more Unmanned Aerial Vehicles (UAVs) of different kinds were used. For example, in 2001, there were ten unmanned "Predators" in use, and at the end of 2007, there were 180. n42 Unmanned aircraft, which depend on substantial computational capacity, are an increasingly important part of our military and may prove to be the [\*374] majority of aircraft by 2020. n43 Even below the skies, robots perform im-portant tasks such as mine removal. n44 Already in development are robots that would wield lasers as a kind of special infantryman focused on killing snipers. n45 Others will act as paramedics. n46 It is not an exaggeration to predict that war twenty or twenty-five years from now may be fought predominantly by robots. The AI-driven battlefield gives rise to a different set of fears than those raised by the potential autonomy of AI. Here, the concern is that human malevolence will lead to these ever more capable machines wreaking ever more havoc and destruction. III. THE FUTILITY OF THE RELINQUISHMENT OF AI AND THE PROHIBITION OF BATTLEFIELD RO-BOTS Joy argues for "relinquishment"--i.e., the abandonment of technologies that can lead to strong AI. Those who are concerned about the use of AI technology on the battlefield would focus more specifically on weapons powered by AI. But whether the objective is relinquishment or the constraint of new weaponry, any such program must be translated into a specific set of legal prohibitions. These prohibitions, at least under current technology and current geopolitics, are certain to be ineffective. Thus, nations are unlikely to unilaterally relinquish the technology behind accelerating compu-tational power or the research to further accelerate that technology. Indeed, were the United States to relinquish such technology, the whole world would be the loser. The United States is both a flourishing commercial republic that benefits from global peace and prosperity, and the world's hegemon, capable of supplying the public goods of global peace and security. Because it gains a greater share of the prosperity that is afforded by peace than do other nations, it has incentives to shoulder the burdens to maintain a global peace that benefits not only the United States but the rest of the world. n47 By relinquishing the power of AI, the United States would in fact be giving **greater incentives** to rogue nations to develop it. Thus, the only realistic alternative to unilateral relinquishment would be a global agreement for relinquishment or regulation of AI-driven weaponry. But such an agreement would face the same insuperable obstacles nuclear disarma-ment has faced. As recent events with Iran and North Korea demonstrate, n48 it seems difficult if not impossible to per-suade rogue nations [\*375] to relinquish nuclear arms. Not only are these weapons a source of geopolitical strength and prestige for such nations, but verifying any prohibition on the preparation and production § Marked 20:17 § of these weapons is a task beyond the capability of international institutions. The verification problems are far greater with respect to the technologies relating to artificial intelligence. Relative-ly few technologies are involved in building a nuclear bomb, but arriving at strong artificial intelligence has many routes and still more that are likely to be discovered. Moreover, building a nuclear bomb requires substantial infrastruc-ture. n49 Artificial intelligence research can be **done in a garage**. Constructing a nuclear bomb requires very substantial resources beyond that of most groups other than nation-states. n50 Researching artificial intelligence is done by institu-tions no richer than colleges and perhaps would require even less substantial resources.

No impact—drones make wars less intense

McGinnis, senior professor – Northwestern Law, ‘10

(John O., 104 Nw. U. L. Rev. Colloquy 366)

It is not as if in the absence of AI wars or weapons will cease to exist. The way to think about the effects of AI on war is to think of the consequences of substituting technologically advanced robots for humans on the battlefield. In at least three ways, that substitution is likely to be beneficial to humans. First, robots make conventional forces more effective and less vulnerable to certain weapons of mass destruction, like chemical and biological weapons. Rebalancing the world to make such weapons **less effective**, even if marginally so, must be counted as a benefit. Second, one of the reasons that conventional armies deploy lethal force is to protect the human soldiers against death or serious injury. If only robots are at stake in a battle, a nation is more likely to use non-lethal force, § Marked 20:17 § such as stun guns and the like. The United States is in fact considering outfitting some of its robotic forces with non-lethal weapon-ry. Third, AI-driven weaponry gives an advantage to the developed world and particularly to the United States, be-cause of its advanced capability in technological innovation. Robotic weapons have been among the most successful in the fight against Al-Qaeda and other groups waging asymmetrical warfare against the United States. The Predator, a robotic airplane, has been successfully targeting terrorists throughout Afghanistan and Pakistan, and more technologi-cally advanced versions are being rapidly developed. Moreover, it does so in a targeted manner without the need to launch large-scale wars to hold territory--a process that would almost certainly result in more collateral damage. n61 If one believes that the United States is on the whole the best enforcer of rules of conduct that make for a peaceful and prosperous world, this development must also be counted as a benefit.

## at: armenia

No incentive for escalation or draw in

Papyan 13 (Ara, President of Armenia-based analytical center Modus Vivendi, 6/15/2013, "Azerbaijan unlikely to declare war on Armenia - expert", www.tert.am/en/news/2013/06/15/ara-papyan/)

The president of the Armenia-based analytical center Modus Vivendi said Saturday that he doesn't expect Azerbaijan’s wide anti-Armenian propaganda to lead to a war renewal with Armenia given that the Western powers would not be interested in such a scenario. “No war is likely to break out. First, it isn’t advantageous to the West as that would even the oil structures to the ground,” Ara Papyan told reporters. The expert said he doesn’t find Azerbaijan’s military advantages powerful enough to secure its victory in a possible war. “The weapons it purchases cannot in any way secure a win, considering the organization of the troops or the geographic location. Yes, we complain of our army a lot, but it isn’t comparable to what is going on in Azerbaijan,” said he, adding that Armenia has turned out lucky enough to have such an eastern neighbor. Noting that Azerbaijan’s only advantage is its money, Papyan said that resource is not really enough to secure a success everywhere. He said the country will hardly ever agree to make Karabakh part of its territory as it isn’t absolutely interested in that piece of land.

Geographic restrictions undermine LOAC’s clarity in governing war – destroys the regime and leads to war

Laurie Blank, Director, International Humanitarian Law Clinic, Emory Law School, 2/25/13, Learning to Live with (a Little) Uncertainty: The Operational Aspects and Consequences of the Geography of Conflict Debate, papers.ssrn.com/sol3/papers.cfm?abstract\_id=2224088&download=yes

B. Consequences for the Continued Development of LOAC

Uncertainty about the geographic scope of armed conflict leads to a variety of analytical and implementation challenges with regard to LOAC, human rights law, jus ad bellum, and other relevant legal regimes. The simple fact that within an armed conflict, a party to the conflict can use lethal force as a first resort, while outside an armed conflict, such deadly force may only be used as a last resort, is the starkest reminder of why such extensive attention has been focused on this question over the past few years. For the purpose of achieving LOAC’s central goal of “alleviating, as much as possible the calamities of war,”32 greater clarity regarding where an armed conflict is taking place and to where the concomitant authorities and obligations extend certainly would be a significant contribution. The international community—military lawyers, policymakers, international law scholars— should therefore address these issues head-on in a continuing effort to better understand how to apply the law most effectively and efficiently.33 Daskal’s proposal for a rules-driven new law of war framework is therefore a welcome and important contribution to the discussion and debate. At the same time, however, these efforts must stay true to the needs and goals of LOAC as a pragmatic, operationally focused body of law that is, above all, designed to work in the inherent chaos and uncertainty of armed conflict. As I have argued elsewhere, **there are significant risks for** the **future implementation and development of LOAC as a result of conflating norms** from LOAC with norms from human rights law, or of borrowing one from the other without careful delineation, including, in particular, the rules regarding surrender and capture and the different applications and purposes of proportionality in each legal regime.34 **No place is this risk more profound than in relation to the legal authority to employ force against an enemy belligerent**. In the context of a specific legal framework for one particular type of conflict, the same concerns about blurring the lines between legal regimes remain. LOAC does not require an individualized threat assessment in the targeting of combatants, who are presumed hostile by dint of their status. Over time, however, the requirement for an individualized threat assessment in certain geographical zones in a new law of war framework for conflicts with transnational terrorist groups may well begin to bleed into the application of LOAC in more **traditional conflicts**. In essence, therefore, a carefully designed paradigm for one complex and difficult conflict scenario ultimately impacts **LOAC writ large**, even absent any perceived need or direct motivation for such change. Interpreting LOAC to require an individualized threat assessment for all targeting decisions—even those against the regular armed forces of the enemy state in an international armed conflict—introduces significant tactical and operational risk for soldiers not mandated or envisioned by the law.35 The same conflation problem holds true for other non-LOAC obligations that might be imported into LOAC depending on the analysis of where and how a new law of war framework were to apply. It is important to recognize, notwithstanding the focus on the operational effectiveness of LOAC in this Response, that conflation and “borrowing” offer the same challenges for the implementation of human rights law, to the extent that norms from LOAC begin to bleed into the application of human rights norms. Lastly, **superimposing an artificially created framework detracts attention from**—or **even papers over**—**current challenges within LOAC**, such as the identification of enemy operatives, the nature and amount of proof required for determinations of reasonableness or unreasonableness in targeting decisions, and other perennially tricky issues.

## at: israel

No strike – no escalation anyway

Elhusseini 13 (Fadi, Palestinian Diplomat and Journalist, 3/12/2013, "Will Israel attack Iran?", jordantimes.com/will-israel-attack-iran)

That red line is fast approaching, but is Israel going to really attack Iran? Many observers say this is sheer fantasy, especially in view of the new Israeli government coalition and the current developments in the Middle East. Iran insists its nuclear programme is peaceful and a national right, yet the fiery speeches and comments delivered by its officials proffer neither good gestures nor convincing assurances to the international community or its sympathisers. The prospect of war terrifies not only Israelis, but also people across the Middle East and the rest of the world. Surveys in Israel show that most Israelis oppose launching a unilateral attack on Iranian nuclear facilities. Experts believe that no Israeli attack would deter the Iranian nuclear programme and its ambition would not be ended, but simply delayed. Israeli military and intelligence chiefs believe that a strike on Iran is a bad idea, while the Obama administration has told Israel to back off and wait for sanctions to work. While it is likely that Iran would retaliate against Israel and possibly the US in response to any attack, it is unlikely that Iran will instigate a major war. Albeit for different reasons, Iran, Israel and the US understand that a war would not serve their interests. Israeli decision makers are confident that if things go bad, the US will not leave Israel at peril. Neither the US, whose most difficult decisions are usually taken in the second presidential term, nor other international powers would leave Israel unaided or accept an Israeli defeat. Iranian decision makers are also aware of the fact that initiating a major war would lead to an eventual American intervention and an inevitable confrontation with the world’s biggest military might.

## russia

No escalation – disagreements remain limited

Weitz 11 (Richard, senior fellow at the Hudson Institute and a World Politics Review senior editor 9/27/2011, “Global Insights: Putin not a Game-Changer for U.S.-Russia Ties,” <http://www.scribd.com/doc/66579517/Global-Insights-Putin-not-a-Game-Changer-for-U-S-Russia-Ties>)

Fifth, there will inevitably be areas of conflict between Russia and the United States regardless of who is in the Kremlin. Putin and his entourage can never be happy with having NATO be Europe's most powerful security institution, since Moscow is not a member and cannot become one. Similarly, the Russians will always object to NATO's missile defense efforts since they can neither match them nor join them in any meaningful way. In the case of Iran, Russian officials genuinely perceive less of a threat from Tehran than do most Americans, and Russia has more to lose from a cessation of economic ties with Iran -- as well as from an Iranian-Western reconciliation. On the other hand, these conflicts can be managed, since they will likely **remain limited and compartmentalized**. Russia and the West **do not have fundamentally conflicting vital interests of the kind countries would go to war over**. And as the Cold War demonstrated, nuclear weapons are a great pacifier under such conditions. Another novel development is that Russia is much more integrated into the international economy and global society than the Soviet Union was, and Putin's popularity depends heavily on his economic track record. Beyond that, there are objective criteria, such as the smaller size of the Russian population and economy as well as the difficulty of controlling modern means of social communication, that will constrain whoever is in charge of Russia.

## china

No SCS escalation – interdependence

Kania 13 [Elsa Kania, Harvard Political Review, 1/11/13, “The South China Sea: Flashpoints and the U.S. Pivot,” <http://www.iop.harvard.edu/south-china-sea-flashpoints-and-us-pivot>, accessed 9/14/13, JTF]

One paradox at the heart of the South China Sea is the uneasy equilibrium that has largely been maintained. Despite the occasional confrontation and frequent diplomatic squabbling, **the situation has never escalated into full-blown physical conflict.** The main stabilizing factor has been that the countries involved have too much to lose form turmoil, and so much to gain from tranquility. Andrew Ring—former Weatherhead Center for International Affairs Fellow—emphasized that “With respect to the South China Sea, we all have the same goals” in terms of regional stability and development. With regional trade flows and interdependence critical to the region’s growing economies, conflict could be devastating. Even for China—the actor with by far the most to gain from such a dispute—taking unilateral action would irreparably tarnish its image in the eyes of the international community. With the predominant narrative of a “rising” and “assertive China”—referred to as a potential adversary by President Obama in the third presidential debate—China’s behavior in the South China Sea may be sometimes exaggerated or sensationalized. Dr. Auer, former Naval officer and currently Director of the Center for U.S.-Japan Studies and Cooperation at the Vanderbilt Institute for Public Policy Studies, told the HPR that “China has not indicated any willingness to negotiate multilaterally” and remains “very uncooperative.” Across its maritime territorial disputes—particularly through recent tensions with Japan in the East China Sea—Auer sees China as having taken a very aggressive stance, and he claims that “Chinese behavior is not understandable or clear.”

## \*\*\*drones

## at: pak

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

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

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

No foreign backlash

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

FOREIGN FRIENDS

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

No reason China cares about Pakistans president

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.

Drone attacks in Pakistan solve stability and terrorism

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.

The 2014 window is key

Miller, national security correspondent – Washington Post, 1/10/’13

(Greg, “U.S. drone strikes in Pakistan on rise for 2013,” Washington Post)

The CIA has opened the year with a flurry of drone strikes in Pakistan, pounding Taliban targets along the country’s tribal belt at a time when the Obama administration is preparing to disclose its plans for pulling most U.S. forces out of neighboring Afghanistan. A strike Thursday in North Waziristan was the seventh in 10 days, marking a major escalation in the pace of attacks. Drone attacks had slipped in frequency to fewer than one per week last year. Current and former U.S. intelligence officials attributed the increased tempo to a sense of urgency surrounding expectations that President Obama will soon order a drawdown that could leave Afghanistan with fewer than 6,000 U.S. troops after 2014. The strikes are seen as a way to weaken adversaries of the Afghan government before the withdrawal and serve notice that the United States will still be able to launch attacks. The rapid series of CIA strikes “may be a signal to groups that include not just al-Qaeda that the U.S. will still present a threat” after most American forces have gone, said Seth Jones, a counterterrorism expert at the Rand Corp. “With the drawdown in U.S. forces, the drone may be, over time, the most important weapon against militant groups.” U.S. officials also tied the increase to recent intelligence gains on groups blamed for lethal attacks on U.S. and coalition forces in Afghanistan. Among those killed in the drone strikes, according to U.S. officials, was Maulvi Nazir, a Taliban commander accused of planning cross-border raids and providing protection for al-Qaeda fighters. The CIA may see a diminishing window for using drones with such devastating effectiveness as the military begins sharp reductions in the 66,000 U.S. troops in Afghanistan, current and former officials said. A former U.S. intelligence official with extensive experience in Afghanistan said the CIA has begun discussing plans to pare back its network of bases across the country to five from 15 or more because of the difficulty of providing security for its outposts after most U.S. forces have left. The CIA declined to comment. “As the military pulls back, the agency has to pull back,” the former U.S. intelligence official said on the condition of anonymity, particularly from high-risk outposts along the country’s eastern border that have served as bases for running informant networks and gathering intelligence on al-Qaeda and Taliban strongholds in Pakistan.

No risk of resource wars---historical evidence all concludes neg---cooperation is way more likely and solves

Jeremy Allouche 11 is currently a Research Fellow at the Institute of Development Studies at the University of Sussex. "The sustainability and resilience of global water and food systems: Political analysis of the interplay between security, resource scarcity, political systems and global trade" Food PolicyVolume 36, Supplement 1, January 2011, Pages S3-S8 Accessed via: Science Direct Sciverse

Water/food resources, war and conflict

The question of resource scarcity has led to many debates on whether scarcity (whether of food or water) will lead to conflict and war. The underlining reasoning behind most of these discourses over food and water wars comes from the Malthusian belief that there is an imbalance between the economic availability of natural resources and population growth since while food production grows linearly, population increases exponentially. Following this reasoning, neo-Malthusians claim that finite natural resources place a strict limit on the growth of human population and aggregate consumption; if these limits are exceeded, social breakdown, conflict and wars result. Nonetheless, it seems that most empirical studies do not support any of these neo-Malthusian arguments. Technological change **and greater inputs of capital** have **dramatically increased labour productivity in agriculture.** More generally, the neo-Malthusian view has suffered because during the last two centuries **humankind has breached many resource barriers that seemed unchallengeable**.

Lessons from history: alarmist scenarios, resource wars and international relations

In a so-called age of uncertainty, a number of alarmist scenarios have linked the increasing use of water resources and food insecurity with wars. The idea of water wars (perhaps more than food wars) is a dominant discourse in the media (see for example Smith, 2009), NGOs (International Alert, 2007) and within international organizations (UNEP, 2007). In 2007, UN Secretary General Ban Ki-moon declared that ‘water scarcity threatens economic and social gains and is a potent fuel for wars and conflict’ (Lewis, 2007). Of course, this type of discourse has an **instrumental purpose**; security and conflict are here used for raising water/food as key policy priorities at the international level.

In the Middle East, presidents, prime ministers and foreign ministers have also used this bellicose rhetoric. § Marked 20:20 § Boutrous Boutros-Gali said; ‘the next war in the Middle East will be over water, not politics’ (Boutros Boutros-Gali in Butts, 1997, p. 65). The question is not whether the sharing of transboundary water sparks political tension and alarmist declaration, but rather to what extent water has been a principal factor in international conflicts. The evidence seems quite weak. Whether by president Sadat in Egypt or King Hussein in Jordan, none **of these declarations have been followed up by military action**.

The governance of transboundary water has gained increased attention these last decades. This has a direct impact on the global food system as water allocation agreements determine the amount of water that can used for irrigated agriculture. The likelihood of conflicts over water is an important parameter to consider in assessing the stability, sustainability and resilience of global food systems.

None **of the** various and extensive databases on the causes of war show water as a casus belli. Using the International Crisis Behavior (ICB) data set and supplementary data from the University of Alabama on water conflicts, Hewitt, Wolf and Hammer found only seven disputes where water seems to have been at least a partial cause for conflict (Wolf, 1998, p. 251). In fact, about 80% of the incidents relating to water were limited purely to governmental rhetoric intended for the electorate (Otchet, 2001, p. 18).

As shown in The Basins At Risk (BAR) water event database, **more than two-thirds of over 1800 water-related ‘events’ fall on the ‘cooperative’ scale** (Yoffe et al., 2003). Indeed, if one takes into account a much longer period, the following figures clearly demonstrate this argument. According to studies by the United Nations Food and Agriculture Organization (FAO), organized political bodies signed between the year 805 and 1984 more than 3600 water-related treaties, and approximately 300 treaties dealing with water management or allocations in international basins have been negotiated since 1945 ([FAO, 1978] and [FAO, 1984]).

The fear around water wars have been driven by a Malthusian outlook which equates scarcity with violence, conflict and war. There is however **no direct correlation between water scarcity and transboundary conflict**. Most specialists now tend to agree that the major issue is not scarcity per se but rather the allocation of water resources between the different riparian states (see for example [Allouche, 2005], [Allouche, 2007] and [Rouyer, 2000]). Water rich countries have been involved in a number of disputes with other relatively water rich countries (see for example India/Pakistan or Brazil/Argentina). The perception of each state’s estimated water needs really constitutes the core issue in transboundary water relations. Indeed, whether this scarcity exists or not in reality, perceptions of the amount of available water shapes people’s attitude towards the environment (Ohlsson, 1999). In fact, some water experts have argued that scarcity drives the process of co-operation among riparians ([Dinar and Dinar, 2005] and [Brochmann and Gleditsch, 2006]).

In terms of international relations, the threat of water wars due to increasing scarcity **does not make much sense in the light of the recent** historical record. Overall, the water war rationale expects conflict to occur over water, and appears to suggest that violence is a viable means of securing national water supplies, an argument which is highly contestable.

The debates over the likely impacts of climate change have again popularised the idea of water wars. The argument runs that climate change will precipitate worsening ecological conditions contributing to resource scarcities, social breakdown, institutional failure, mass migrations and in turn cause greater political instability and conflict ([Brauch, 2002] and [Pervis and Busby, 2004]). In a report for the US Department of Defense, Schwartz and Randall (2003) speculate about the consequences of a worst-case climate change scenario arguing that water shortages will lead to aggressive wars (Schwartz and Randall, 2003, p. 15). Despite growing concern that climate change will lead to instability and violent conflict, **the evidence base to substantiate the connections is thin** ([Barnett and Adger, 2007] and [Kevane and Gray, 2008]).

## trade

Trade doesn’t solve war

Martin et. al. 8(Phillipe, University of Paris 1 Pantheon—Sorbonne, Paris School of Economics, and Centre for Economic Policy Research; Thierry MAYER, University of Paris 1 Pantheon—Sorbonne, Paris School of Economics, CEPII, and Centre for Economic Policy Research, Mathias THOENIG, University of Geneva and Paris School of Economics, The Review of Economic Studies 75)

Does globalization pacify international relations? The “liberal” view in political science argues that increasing trade flows and the spread of free markets and democracy should limit the incentive to use military force in interstate relations. This vision, which can partly be traced back to Kant’s Essay on Perpetual Peace (1795), has been very influential: The main objective of the European trade integration process was to prevent the killing and destruction of the two World Wars from ever happening again.1 Figure 1 suggests2 however, that during the 1870–2001 period, the correlation between trade openness and military conflicts is not a clear cut one. The first era of globalization, at the end of the 19th century, was a period of rising trade openness and multiple military conflicts, culminating with World War I. Then, the interwar period was characterized by a simultaneous collapse of world trade and conflicts. After World War II, world trade increased rapidly, while the number of conflicts decreased (although the risk of a global conflict was obviously high). There is no clear evidence that the 1990s, during which trade flows increased dramatically, was a period of lower prevalence of military conflicts, even taking into account the increase in the number of sovereign states.

# 2nc

## \*\*\*case

## central asia

No Central Asian war

**Collins 3**—pol sci, Notre Dame. PhD—AND—William Wohlforth—government, Dartmouth (Kathleen, Defying “Great Game” Expectations, http://www.dartmouth.edu/~govt/docs/15-Central%20Asia-press.pdf)

Note – confluence = flowing together

While cautious realism must remain the watchword concerning an impoverished and potentially unstable region comprised of fragile and authoritarian states, our analysis yields at least conditional and relative optimism. Given the confluence of their chief strategic interests, the **major powers are in a better position to serve as a** **stabilizing force** than analogies to the Great Game or the Cold War would suggest. It is important to stress that the region’s response to the profoundly destabilizing shock of coordinated terror attacks was increased cooperation between local governments and China and Russia, and—multipolar rhetoric notwithstanding—between both of them and the United States. If this trend is nurtured and if the initial signals about potential SCO-CSTO-NATO cooperation are pursued, another destabilizing shock might generate more rather than less cooperation among the major powers. Uzbekistan, Kyrgyzstan, Tajikistan, and Kazakhstan are clearly on a trajectory that portends longer-term cooperation with each of the great powers. As military and economic security interests become more entwined, there are sound reasons to conclude that “great game” politics will not shape Central Asia’s future in the same competitive and destabilizing way as they have controlled its past. To the contrary, mutual interests in Central Asia may reinforce the broader positive developments in the great powers’ relations that have taken place since September 11, as well as reinforce regional and domestic stability in Central Asia.

## trade

Interdependence doesn’t solve war

May 5**—**Professor Emeritus (Research) in the Stanford University School of Engineering and a senior fellow with the Institute for International Studies at Stanford University. Former co-director of Stanford University's Center for International Security and Cooperation. Principal Investigator for the DHS. (Michael, “The U.S.-China Strategic Relationship,” September 2005, http://www.ccc.nps.navy.mil/si/2005/Sep/maySep05.asp)

However important and beneficial this interdependence may be from an economic point of view, it is not likely to be a significant factor for strategic stability. Famously, economists before World War I sounded clear warnings that Europe had become economically interdependent to an extent that war there would ruin Europe. The war was fought nevertheless, Europe was duly ruined, and the ensuing political consequences haunted Europe to the end of World War II. Other cases exist. Modern war has been an economic disaster. Economic realities, including economic interdependence, play little role in whether a country goes to war or not. Economic myths certainly do and they usually affect strategic stability quite negatively. This is another reason why domestic perceptions matter: they determine which myths are believed.

Trade doesn’t solve war—empirically proven

Copeland 96 – Professor of Government, Virginia (Dale, Economic Interdependence and War, International Security 20.4, http://www.mtholyoke.edu/acad/intrel/copeland.htm)

The unsatisfactory nature of both liberal and realist theories is shown by their difficulties in explaining the run-ups to the two World Wars. The period up to World War I exposes a glaring anomaly for liberal theory: the European powers had reached unprecedented levels of trade, yet that did not prevent them from going to war. Realists certainly have the correlation right-the war was preceded by high interdependence-but trade levels had been high for the previous thirty years; hence, even if interdependence was a necessary condition for the war, it was not sufficient. At first glance, the period from 1920 to 1940 seems to support liberalism over realism. In the 1920s, interdependence was high, and the world was essentially peaceful; in the 1930s, as entrenched protectionism caused interdependence to fall, international tension rose to the point of world war. Yet the two most aggressive states in the system during the 1930s, Germany and Japan, were also the most highly dependent despite their efforts towards autarchy, relying on other states, including other great powers, for critical raw materials. Realism thus seems correct in arguing that high dependence may lead to conflict, as states use war to ensure access to vital goods. Realism's problem with the interwar era, however, is that Germany and Japan had been even more dependent in the 1920s, yet they sought war only in the late 1930s when their dependence, although still significant, had fallen.

## africa

Low risk of conflict—prefer quantitative methodology

Posner 8— Associate Professor of Political Science at UCLA— James Habyarimana is Assistant Professor of Public Policy at Georgetown University—Macartan Humphreys is Assistant Professor of Political Science at Columbia University—Jeremy Weinstein is Assistant Professor of Political Science at Stanford University. (Daniel, Is Ethnic Conflict Inevitable? Parting Ways Over Nationalism and Separatism, Foreign Affairs. New York: /2008. Vol. 87, Iss. 4; pg. 138, ProQuest)

If correct, his conclusion has profound implications both for the likelihood of peace in the world and for what might be done to promote it. But is it correct? Do ethnic divisions inevitably generate violence? And why does ethnic diversity sometimes give rise to conflict? In fact, ethnic differences are not inevitably, or even commonly, linked to violence on a grand scale. The assumption that because conflicts are often ethnic, ethnicity must breed conflict is an example of a classical error sometimes called "the base-rate fallacy." In the area of ethnic conflict and violence, this fallacy is common. To assess the extent to which Muller falls prey to it, one needs some sense of the "base." How frequently does ethnic conflict occur, and how often does it occur in the context of volatile mismatches between ethnic groups and states? A few years ago, the political scientists James Fearon and David Laitin did the math. They used the best available data on ethnic demography for every country in Africa to calculate the "opportunities" for four types of communal conflict between independence and 1979: ethnic violence (which pits one group against another), irredentism (when one ethnic group attempts to secede to join co-ethnic communities in other states), rebellion (when one group takes action against another to control the political system), and civil war (when violent conflicts are aimed at creating a new ethnically based political system). Fearon and Laitin identified tens of thousands of pairs of ethnic groups that could have been in conflict. But they did not find thousands of conflicts (as might have been expected if ethnic differences consistently led to violence) or hundreds of new states (which partition would have created). Strikingly, for every one thousand such pairs of ethnic groups, they found **fewer than three incidents** of violent conflict. Moreover, with few exceptions, African state boundaries today look just as they did in 1960. Fearon and Laitin concluded that communal violence, although horrifying, is extremely rare. The base-rate fallacy is particularly seductive when events are much more visible than nonevents. This is the case with ethnic conflict, and it may have led Muller astray in his account of the triumph of European nationalism. He emphasizes the role of violence in homogenizing European states but overlooks the peaceful consolidation that has resulted from the ability of diverse groups-the Alsatians, the Bretons, and the Provencals in France; the Finns and the Swedes in Finland; the Genoese, the Tuscans, and the Venetians in Italy-to live together. By failing to consider the conflicts that did not happen, Muller may have misunderstood the dynamics of those that did. Of course, ethnic divisions do lead to violent conflict in some instances. Violence may even be so severe that partition is the only workable solution. Yet this extreme response has not been required in most cases in which ethnic divisions have existed. Making sense of when ethnic differences generate conflict-and knowing how best to attempt to prevent or respond to them when they do-requires a deeper understanding of how ethnicity works.

No escalation.

Barrett 5 (Robert Barrett, PhD student Centre for Military and Strategic Studies, University of Calgary, June 1, ‘5, http://papers.ssrn.com/sol3/Delivery.cfm/SSRN\_ID726162\_code327511.pdf?abstractid=726162&mirid=1)

Westerners eager to promote democracy must be wary of African politicians who promise democratic reform without sincere commitment to the process. Offering money to corrupt leaders in exchange for their taking small steps away from autocracy may in fact be a way of pushing countries into anocracy. As such, world financial lenders and interventionists who wield leverage and influence must take responsibility in considering the ramifications of African nations who adopt democracy in order to maintain elite political privileges. The obvious reason for this, aside from the potential costs in human life should conflict arise from hastily constructed democratic reforms, is the fact that Western donors, in the face of intrastate war would then be faced with channeling funds and resources away from democratization efforts and toward conflict intervention based on issues of human security. This is a problem, as Western nations may be increasingly **wary of intervening** in Africa hotspots after experiencing firsthand the unpredictable and unforgiving nature of societal warfare in both Somalia and Rwanda**.** On a costbenefit basis, the West continues to be somewhat **reluctant to get to get involved** in Africa’s dirty wars**,** evidenced by its political hesitation when discussing ongoing sanguinary grassroots conflicts in Africa. Even as the world apologizes for bearing witness to the Rwandan genocide without having intervened, the United States, recently using the label ‘genocide’ in the context of the Sudanese conflict (in September of 2004), has only proclaimed sanctions against Sudan, while dismissing any suggestions at actual intervention (Giry, 2005). Part of the problem is that traditional military and diplomatic approaches at separating combatants and enforcing ceasefires have yielded little in Africa. **No powerful nations want to get embroiled in conflicts they cannot win** – especially those conflicts in which the intervening nation has very little interest.

No risk of water wars

Lawfield 10 – Thomas Lawfield is an MA candidate at the University for Peace. Water Security: War or Peace? Thomas Lawfield May 03, 2010, <http://www.monitor.upeace.org/innerpg.cfm?id_article=715>, ZBurdette) \*note: changed to BC[E]

In reality, water does not cause war. The arguments presented above, although correct in principle, have little purchase in empirical evidence. Indeed, as one author notes, there is only one case of a war where the formal declaration of war was over water.[20] This was an incident between two Mesopotamian city states, Lagash and Umma, over 2,500 years BC[E], in modern day southern Iraq.

Both the initial premises and arguments of water war theorists have been brought into question. Given this, a number of areas of contestation have emerged: "Questioning both the supply and demand side of the water war argument [...] Questioning assumptions about the costs of water resources [...and] Demonstrating the cooperative potential of the water resource."[21]

Why then is water not a cause of war? The answer lies in two factors: first, the capacity for adaptation to water stresses and, second, the political drawbacks to coupling water and conflict.

First, there is no water crisis, or more correctly, there are a number of adaptation strategies that reduce stress on water resources and so make conflict less likely. Unlike the water war discourse, which perceives water as finite in the Malthusian sense, **the capacity for adaptation to water stress has been greatly underestimated**. For instance, I will discuss in particular a trading adaptation known as ‘virtual water’, which refers to the water used to grow imported food. This water can be subtracted from the total projected agricultural water needs of a state, and hence allows water scarce states to operate on a lower in-country water requirement than would otherwise be expected.[22] This means that regions of the world that are particularly rich in water produce water intense agricultural products more easily in the global trade system, while other water scarce areas produce low intensity products.[23] The scale of this water is significant - Allan famously pointed out that more embedded water flows into the Middle East in the form of grain than flows in the Nile.[24]

In addition, there are significant problems around the hegemonic doctrine of the water crisis. Many authors point to relatively low water provision per capita by states, and suggest that this will increase the likelihood of a state engaging in war with a neighbouring state, to obtain the water necessary for its population. This is normally a conceptual leap that produces the incorrect corollary of conflict, but is also frequently **a problem of data weaknesses** around the per capita requirements. For instance, Stucki cites the case of the Palestinians being under the worst water stress, with a per capita provision being in the region of 165m³/year.[25] Unfortunately, such an analysis is based on false actual provision data in this region. Based on the authors work on water provision in Lebanese Palestinian refugee camps, the actual provision is over 90m³/month. Such a figure is highly likely to be representative of other camps in the region.[26] If this example is representative of trends to exaggerate water pressures in the region, then **we should be sceptical about claims of increasing water stress.**

Furthermore, given that many water systems have a pipe leakage rate of fifty per cent, combined with a seventy per cent loss of agricultural water, significant efficiency enhancements could be made to existing infrastructure. Combined with desalination options in many water shortage prone states, there is an overall capacity for technological and market driven solutions to water scarcity.[27]

Russia won’t risk escalation

Bhatty 8—M.Phil/Ph.D candidate at Area Study Centre for Europe, U Karachi, Pakistan (Roy, Russia: the Traditional Hegemon in Central Asia, http://www.sam.gov.tr/perceptions/volume13/autumn/RojSultanKhanBhatty.pdf)

Note – CARs = Central Asian Republics

Russia’s long-term interests in Central Asia are very clear and unambiguous. **Russia wants to maintain stability in Central Asia** to avoid any spill over effects. Conflicts in Central Asia would create a power vacuum that could develop security challenges for Russia. Stability in Central Asia is also a prerequisite for the smooth import of oil and gas from Central Asia. Russia desires to keep the CARs in its sphere of influence to ensure their cooperation, not only in energy supply, but also in other areas of strategic importance. The CARs’ oil and gas pipelines links with other regional states like Turkey, Pakistan, Iran and China and will integrate the CARs with these regional states which will hurt Russia’s long term strategic and economic interests. For instance, if the CARs succeed in transporting their energy resources through Turkey, Pakistan or Iran excluding Russia, it will result in large revenues in the CARs which they will use in establishing their independent forces and stable economies. Then, their dependence on Russia will decrease and Russia will always discourage such kind of developments. As a part of long-term strategy, Russia wants to counter any penetration by the US, US dominated institutions like NATO and regional powers.

## \*\*\*cp

## solves codification

**Courts can codify clear zone of conflict standards**

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

This task is both necessary and inherently difficult. It is an attempt to develop a set of clear standards, or on-off triggers, for a situation in which the gravity, imminence, and likelihood of a threat are dynamic, uncertain, and difficult to categorize. My aim is to propose an initial set of standards that will regulate the use of force and detention without charge outside a zone of active hostilities, consistent with the state's legitimate security needs. The expectation is that debate and discussion will help develop and refine the details over time.¶ A. The Zone of Active Hostilities¶ Commentary, political discourse, court rulings, and academic literature are rife with references to the distinction between the so-called "hot battlefield" and elsewhere. Yet despite the salience of this distinction, there is no commonly understood definition of a "hot battlefield," let alone a common term applied by all. n118 In what follows, I briefly survey the relevant treaty and case law and offer a working definition of what I call the "zone of active hostilities." This definition takes into account such sources of law as well as the normative and practical reasons for this distinction.¶ 1. Treaty and Case Law¶ While not explicitly articulated, the notion of a distinct zone of active hostilities where fighting is underway is implicit in treaty law. The Geneva Conventions, for example, specify that prisoners of war and internees must be moved away from the "combat zone" in order to keep them out of danger, n119 and that belligerent parties must conduct searches for the dead and wounded left on the "battlefield." n120 While there are no explicit definitions provided, the context suggests that these terms refer to those areas where fighting is currently taking place or very likely to occur. The related term "zones of military operations," which is spelled out in a bit more detail in the Commentaries to the Geneva Conventions, is described as covering those areas where there is actual or planned troop movement, even if no active fighting. n121¶ In a variety of contexts, **U.S. courts** also **have opined on whether certain activities fall within or outside of a zone of active hostilities**, indicating that the existence and quantity of fighting forces are key. In Hamdi v. Rumsfeld, for example, the Supreme Court observed that the large number of troops on the ground in Afghanistan supported the finding that the United States was involved in "**active combat" there**. n122 A panel of the D.C. Circuit subsequently noted that the ongoing military campaign by U.S. forces, the attacks against U.S. forces by the Taliban and al Qaeda, the casualties U.S. personnel incurred, and the presence of other non-U.S. troops under NATO command supported its finding that Afghanistan was "a theater of active military combat." n123 Previous cases have similarly used the presence of fighting forces, the actual engagement of opposing forces, and casualty counts to identify a theater of active conflict. n124¶ Conversely, U.S. courts have often assumed that areas in which there is no active fighting between armed entities fall outside of the zone of active hostilities. Thus, the Al-Marri and Padilla litigations were premised on the notion that the two men were outside of the zone of active hostilities when [\*1205] taken into custody in the United States. n125 The central issue in those cases was how much this distinction mattered. n126 The D.C. Circuit in Al Maqaleh similarly distinguished Afghanistan defined as part of "the theater of active military combat" from Guantanamo described as outside of this "theater of war" presumably because of the absence of active fighting there. n127 In the context of the Guantanamo habeas litigation, D.C. District Court judges have at various times also described Saudi Arabia, Gambia, Zambia, Bosnia, Pakistan, and Thailand as outside an active battle zone. n128¶ **In defining what constitutes a conflict** in the first place, international **courts have** similarly **looked** **at the existence, duration, and intensity of the actual fighting**. Specifically, in Tadic, the ICTY defined a noninternational armed conflict as involving "protracted armed violence between governmental authorities and organized armed groups." n129 In subsequent cases, the ICTY [\*1206] described the term "protracted armed violence" as turning on the intensity of the violence and encompassing considerations such as "the number, duration, and intensity of individual confrontations; the type of weapons and other military equipment used; the number and calibre of weapons fired; the number of persons and type of forces partaking in the fighting; the number of casualties; [and] the extent of material destruction." n130 Security Council attention is also deemed relevant. n131¶ The International Committee of the Red Cross (ICRC) has similarly defined noninternational armed conflicts as "protracted armed confrontations" that involve a "minimum level of intensity."

That resolves the signal of Congressional inaction

Deborah Pearlstein, Visiting Faculty Fellow, University of Pennsylvania Law School, 2009-2011; Associate Research Scholar, Woodrow Wilson School of Public and International Affairs, Princeton University, 11 [“AFTER DEFERENCE: FORMALIZING THE JUDICIAL POWER FOR FOREIGN RELATIONS LAW,” February, 2011, University of Pennsylvania Law Review, 159 U. Pa. L. Rev. 783]

There is also much to be said about the utility of judicial pressure on the political branches to clarify foreign relations law and legal texts over time. Consider recent judicial efforts to interpret the AUMF, which Congress enacted in the wake of the attacks of September 11, 2001. n234 Given the relatively sparse legislative history and other standard [\*833] interpretive sources that usually help courts discern the meaning of statutes, some scholars have suggested that historical executive branch practice should be explored to shed light on statutory meaning. n235 If the President has interpreted force-authorization language one way in the past - and especially if Congress has acquiesced in that interpretation over time - then a later Congress could employ the same language comfortable in the knowledge that executive implementation would accurately reflect its intent. n236¶ Yet, as the Court itself has recognized, **reliance on acquiescence to past practice is fraught with problems that range from functional concerns** about interpreting legislative silence to formal problems of according the same authority to congressional silences as to congressional legislation that has satisfied the important hurdles of bicameral debate and presentment to the executive. n237 In the foreign relations context, **it may be especially unclear whether a particular executive action is taken pursuant to an executive understanding of statutory delegation, or based on the executive's view of its own constitutional authority**. And particularly if one believes modern security threats are categorically different from past dangers, **it is not at all evident that past executive practice offers clarification in this realm**. **In contrast**, a legislature acting in the shadow of **clearer judicial expectations** - or any guidance - in drafting statutes **might facilitate legislative use-of-force debates**, crystallizing differences in circumstances when prompt resolution may be important.¶ While adopting an instrumental theory of judicial power in foreign relations law may thus have considerable advantages, a purely instrumental view of structural judicial power leaves open some important questions for deference doctrine in foreign relations. A first set of questions goes to the permissibility of deference of any kind to executive views in statutory interpretation. The instrumentalist court's duty to ensure that legislative drafting is informed by rule-of-law values would seem to preclude much attention to executive views at any stage. Limiting judicial engagement in the interpretation of legal questions properly before the courts would curtail the infusion into [\*834] lawmaking of judicial values that instrumentalists would maintain the Framers expected the courts to promote. Instrumental theory might well tolerate judicial consideration of executive views (short of legal deference) for functional reasons - a Skidmore-like attention to the formal process, relative expertise, and persuasiveness of the executive's position. But it is difficult to see instrumental theory as readily reconcilable with even Chevron - much less Curtiss-Wright - deference to executive views. If instrumental theory as such is right, superdeference regimes are likely wrong.

**And captures all of their offense—the CP shapes norms and statutory law resolving legal clarity and Congressional signals**

Deborah Pearlstein, Visiting Faculty Fellow, University of Pennsylvania Law School, 2009-2011; Associate Research Scholar, Woodrow Wilson School of Public and International Affairs, Princeton University, 11 [“AFTER DEFERENCE: FORMALIZING THE JUDICIAL POWER FOR FOREIGN RELATIONS LAW,” February, 2011, University of Pennsylvania Law Review, 159 U. Pa. L. Rev. 783]

B. Instrumental Interpretation¶ ¶ A second model of the judicial power, sometimes called instrumental theory, holds that Article III courts were not created to be mere agents of Congress. Rather, the courts were meant to employ quintessentially judicial canons of interpretation and methods of legal reasoning that would help both to clarify ambiguous texts **and to influence legislative drafting** over time. n222 One of the most thorough recent accounts of this view comes from Jonathan Molot. He contends that the Framers understood judicial reasoning to be at least moderately constrained on its own terms by judicial principles such as stare decisis and by interpretive canons that drove courts to avoid absurd or unjust results. n223 In this view, courts bring to bear institutional and professional norms to help serve rule-of-law interests in consistency, fairness, justice, and rationality across the law - in order to "induce legislators to internalize these judicial values when enacting statutes in the first place." n224 Such interests were less likely to be reflected in legislation if the law's content was left only to the pull of political constituencies, driven by their own specific and immediate needs. n225 Moreover, independent judicial interpretation of statutes could prompt further public engagement with gaps in statutory meaning, whether the gap results from legislative inadvertence or a failure of political compromise. n226 In this [\*831] sense, courts' transparent exercise of the interpretive function could also **serve a democracy-forcing function**, helping to clarify the law (and thereby to promote the rule of law) over time.¶ Much in an instrumentalist theory of judicial power **seems salient in foreign relations law**. On formal grounds, there is the promise that judicial involvement could help reinforce a structural constitutional scheme that contemplates Congress and the executive sharing power in foreign relations. n227 Although the Constitution grants Congress any number of broad textual powers that seem to contemplate its engagement in and regulation of U.S. foreign affairs, n228 scholars have long lamented Congress's cession of power to the executive on many questions of foreign relations. This phenomenon may derive from political dynamics that tend to give the executive disproportionate political credit for engagement in foreign relations successes, while ensuring that both political branches are blamed for foreign relations failures. n229 But whether Congress's reticence is driven by constitutional conviction or political fear (or some other institutional failing), **it** [\*832] **may be prompted into action by judicial insistence that Congress reengage in matters of foreign relations**.¶ Indeed, Congress has demonstrated its capacity to respond when it dislikes the interpretive efforts of the Court. n230 The question about the legality of executive-made military commissions as a forum for war crimes trials in Hamdan is only a more recent example. The issue in Hamdan revolved around the President's authorization of the use of military commissions in late 2001. n231 For five years thereafter, Congress remained silent while the executive branch made repeated efforts to refine the commission structure in the face of vigorous objections. The Court's 2006 decision in Hamdan - holding, inter alia, that the President lacked the authority to convene such commissions without express congressional authorization n232 - compelled the executive to seek engagement by Congress. Congress thus entered a heated public debate on the question and ultimately passed a detailed statute authorizing the use of military commissions. n233 While the resulting Military Commissions Act of 2006 may be criticized on various levels, **there is little question that it was the Court's engagement that forced serious legislative consideration of the parameters of commission trials.** In this regard, **judicial involvement promoted the structural value of political accountability: the Court's action forced a transparent debate in Congress, rather than leaving the resolution of core questions of meaning to far less transparent executive branch processes, where secrecy may readily disable accountability checks.**¶ There is also much to be said about the utility of judicial pressure on the political branches to clarify foreign relations law and legal texts over time. Consider recent judicial efforts to interpret the AUMF, which Congress enacted in the wake of the attacks of September 11, 2001. n234 Given the relatively sparse legislative history and other standard [\*833] interpretive sources that usually help courts discern the meaning of statutes, some scholars have suggested that historical executive branch practice should be explored to shed light on statutory meaning. n235 If the President has interpreted force-authorization language one way in the past - and especially if Congress has acquiesced in that interpretation over time - then a later Congress could employ the same language comfortable in the knowledge that executive implementation would accurately reflect its intent. n236¶ Yet, as the Court itself has recognized, **reliance on acquiescence to past practice is fraught with problems** that **range from functional concerns about interpreting legislative silence to formal problems of according the same authority to congressional silences as to congressional legislation that has satisfied the important hurdles of bicameral debate and presentment to the executive**. n237 In the foreign relations context, it may be especially unclear whether a particular executive action is taken pursuant to an executive understanding of statutory delegation, or based on the executive's view of its own constitutional authority. And particularly if one believes modern security threats are categorically different from past dangers, it is not at all evident that past executive practice offers clarification in this realm. In contrast, a legislature acting in the shadow of clearer judicial expectations - or any guidance - in drafting statutes **might facilitate legislative use-of-force debates, crystallizing differences in circumstances** when prompt resolution may be important.¶ While adopting an instrumental theory of judicial power in foreign relations law may thus have considerable advantages, a purely instrumental view of structural judicial power leaves open some important questions for deference doctrine in foreign relations. A first set of questions goes to the permissibility of deference of any kind to executive views in statutory interpretation. The instrumentalist court's duty to ensure that legislative drafting is informed by rule-of-law values would seem to preclude much attention to executive views at any stage. Limiting judicial engagement in the interpretation of legal questions properly before the courts would curtail the infusion into [\*834] lawmaking of judicial values that instrumentalists would maintain the Framers expected the courts to promote. Instrumental theory might well tolerate judicial consideration of executive views (short of legal deference) for functional reasons - a Skidmore-like attention to the formal process, relative expertise, and persuasiveness of the executive's position. But it is difficult to see instrumental theory as readily reconcilable with even Chevron - much less Curtiss-Wright - deference to executive views. If instrumental theory as such is right, superdeference regimes are likely wrong.

**That results in legal clarity over all relevant statutory authority**

Cass Sunstein, Karl N. Llewellyn Distinguished Service Professor, Law School and Department of Political Science, University of Chicago, 2k [“Nondelegation Canons,” University of Chicago Law Review, Spring, 2000, 67 U. Chi. L. Rev. 315]

Canons of the sort I have outlined here are highly controversial. Judge Posner, for example, fears that some of them create a "penumbral Constitution," **authorizing judges to bend statutes** in particular directions **even though there** may in fact be no constitutional violation. [\*338] n111 But if the analysis here is correct, there is a simple answer to these concerns: The relevant canons operate as nondelegation principles, and they are designed to **ensure that Congress decides certain contested questions on its ow**n. If this idea is a core structural commitment of the Constitution, there can be no problem with its judicial enforcement.¶ We can go further. As noted above, there are serious problems with judicial enforcement of the conventional nondelegation doctrine. n112 The difficulty of drawing lines between prohibited and permitted delegations makes it reasonable to conclude that for the most part, **the ban on unacceptable delegations is a judicially underenforced norm**, and properly so. n113 From the standpoint of improving the operation of the regulatory state, it is also far from clear that general judicial enforcement of the doctrine would do much good; for reasons given above, it might even produce considerable harm.¶ Compare, along the relevant dimensions, judicial use of the nondelegation canons. Here the institutional problem is far less severe. Courts do not ask the hard-to-manage question whether the legislature has exceeded the permissible level of discretion, but pose instead the far more manageable question whether the agency has been given the discretion to decide something that (under the appropriate canon) only legislatures may decide. In other words, courts ask a question about subject matter, not a question about degree.¶ Putting the competence of courts to one side, the nondelegation canons have the salutary function of ensuring that certain important rights and interests will not be compromised unless Congress has expressly decided to compromise them. Thus the nondelegation canons lack a central defect of the conventional doctrine: While there is no good reason to think that a reinvigorated nondelegation doctrine would improve the operation of modern regulation, it is entirely reasonable to think that for certain kinds of decisions, merely executive decisions are not enough.¶ If, for example, an agency is attempting on its own to apply domestic law extraterritorially, we might believe that whatever its expertise, it is inappropriate, as a matter of democratic theory and international relations, for this to happen unless Congress has decided that it should. Or courts might reasonably believe that retroactive application of regulatory law is acceptable not simply because the executive [\*339] believes that an ambiguous law should be so construed, but if and only if Congress has reached this conclusion. This judgment might be founded on the idea that political safeguards will ensure that Congress will so decide only if there is very good reason for that decision. For those who believe that retroactivity is constitutionally unacceptable, this may be insufficient consolation. But a requirement that Congress make the decision on its own is certainly likely to make abuses less common, if they are legitimately characterized as abuses at all. Many of the canons discussed above fall within my basic account, stressing the role of nondelegation canons in ensuring that certain rights and interests will not be compromised without explicit congressional instructions. Above all, perhaps, this is true for the idea that agencies may not raise serious constitutional questions on their own.¶ These points have the considerable advantage of understanding the nondelegation canons as a modern incarnation of the framers' basic project of linking individual rights and interests with institutional design. n114 The link comes from protecting certain rights and interests not through a flat judicial ban on governmental action, but through a requirement that certain controversial or unusual actions will occur only with respect for the institutional safeguards introduced through the design of Congress. There is thus a close connection between the nondelegation canons and a central aspiration of the constitutional structure.¶ It would be possible to object at this point that the nondelegation canons will, in practice, operate as more than presumptions. At least in most cases, congressional inertia, and multiple demands on Congress's time, will mean that the result ordained by the canon will prevail for the foreseeable future. If this is the case, nondelegation canons will not "force" legislative deliberation but simply produce a (judicially preferred?) result. But there are three problems with this objection. First, Congress will sometimes respond to the judicial decision by legislating with clarity; this has happened many times in the past. n115 Second, the nondelegation canons--to deserve support--must rest on something other than judicial policy preferences; they must have some foundation in concerns, institutional or otherwise, of the sort identified above. Third, there is nothing to lament about a situation in which, for example, statutes may not be applied retroactively, or extraterritorially, without congressional authorization, and in which Congress is unable to muster the will to give that authorization. If the argument here is correct, the outcome ordained by the nondelegation canon should [\*340] prevail unless Congress has said otherwise. The fact that sometimes Congress will not say otherwise is not an argument against the canon; it is a tribute to it.

## solves signal

**Supreme Court rulings send a massive international signal**

Michael P. Scharf et al., Counsel of Record, Brief of the Public International Law & Policy Group as Amicus Curiae in Support of the Petitioners, Jamal Kiyemba, et. Al., v. Barack H. Obama, et al., SCOTUS, No. 08-1234, 12—09, p. 3-8.

The precedent of this Court has a significant impact on rule of law in foreign states. Foreign governments, in particular foreign judiciaries, notice and follow the example set by the U.S. in upholding the rule of law. As foreign governments and judiciaries grapple with new and challenging issues associated with upholding the rule of law during times of conflict, U.S. leadership on the primacy of law during the war on terror is particularly important. Recent decisions of this Court have reaffirmed the primacy of rule of law in the U.S. during the war on terror. As relates to the present case, a number of this Court’s decisions, most notably Boumediene v. Bush, 128 S.Ct. 2229 (2008), have established clear precedent that Guantanamo detainees have a right to petition for habeas corpus relief. Despite a clear holding from this Court in Boumediene, the Court of Appeals sought in Kiyemba v. Obama to narrow Boumediene to such a degree as to render this Court’s ruling hollow. 555 F.3d 1022 (D.C. Cir. 2009). The present case is thus a test of both the substance of the right granted in Boumediene and the role of this Court in ensuring faithful implementation of its prior decisions. Although this Court’s rulings only have the force of law in the U.S., foreign governments will take note of the decision in the present case and use the precedent set by this Court to guide their actions in times of conflict. PILPG has advised over two dozen foreign states on peace negotiations and post-conflict constitution drafting, as well as all of the international war crimes tribunals. Through providing pro bono legal assistance to foreign governments and judiciaries, PILPG has observed the important role this Court and U.S. precedent serve in promoting rule of law in foreign states. In Uganda, for example, the precedent established by this Court in Hamdan v. Rumsfeld, 548 U.S. 557 (2006), and Boumediene, influenced judges and legislators to incorporate the principles of judicial review and enforceability in their domestic war crimes bill. In Nepal, this Court has served as a model for the nascent judiciary. In Somaliland, the government relied heavily on U.S. terrorism legislation when drafting terrorism legislation for the region. And in the South Sudan peace process, the Sudan People’s Liberation Movement/Army (SPLM/A), the leading political party in the Government of Southern Sudan, relied on U.S. precedent to argue for the primacy of law and the importance of enforceability of previous adjudicative decisions in the Abyei Arbitration, one of the most important and contentious issues in the ongoing implementation of the peace agreement. Foreign judges also follow the work of this Court closely. In a number of the judicial training programs PILPG has conducted, foreign judges have asked PILPG detailed questions about the role of this Court in upholding rule of law during the war on terror. A review of foreign precedent confirms how closely foreign judges follow this Court. In numerous foreign states, and in the international war crimes tribunals, judges regularly cite the precedent of this Court to establish their own legitimacy, to shore up judicial authority against overreaching by powerful executives, and to develop a strong rule of law within their own legal systems. Given the significant influence of this Court on foreign governments and judiciaries, a decision in Kiyemba implementing Boumediene will reaffirm this Court’s leadership in upholding the rule of law and promote respect for rule of law in foreign states during times of conflict.

## at: links to politics

**Court action allows Congress to maintain focus on the debt ceiling, avoids the fight**

Gregory Intoccia, practicing attorney specializing in telecommunications, 2001, Reassessing Judicial Capacity to Resolve Complex Questions of Social Policy, 11 USAFA J. Leg. Stud. 127

Elected politicians appear to "pass the buck" to the judiciary when an issue divides the electorate in a manner that is not in keeping with conventional party divisions. As the judiciary is a non-partisan institution that has traditionally resolved specific controversies, the courts offer politicians the opportunity to deflect issues potentially disruptive to partisan debate. For example, judicial policy on abortion suggests that this principle is valid. For at least a decade prior to the Supreme Court's abortion decision in Roe v. Wade, many mainstream politicians generally sought to avoid the abortion issue. In the mid-1960s, the two major parties remained divided over New Deal economic issues, but voters were increasingly interested in other issues such as law and order, race, gender equity and social lifestyles. At that time, the majority Democratic Party was divided between liberals who were attracted to new views of social lifestyles and traditionalists who condemned them. The Republican Party was also divided internally over these issues, but to a lesser degree. While the two parties primarily debated economic issues, many mainstream politicians sought to avoid debate on a number of non-economic social issues. As the debate over such issues as abortion intensified, elected officials increasingly deferred to the judiciary for resolution. In the months prior to the Roe v. Wade decision, many politicians sought to remove themselves from the potential fall-out of a legislative solution to the abortion question, preferring instead that the judiciary decide whether to eliminate abortion restrictions.

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Extinction

Fraser, former PM of Australia, 7/4/’11

(Malcom, “Dealing with nuclear terror means plants and weapons,” Taipei Times)

Recent history is peppered with a litany of false alerts and near misses, each unforeseen, each a combination of technical and human failure. The growing potential for a nuclear disaster by cyber attack adds to the existential danger.

We now know that just 100 relatively “small” Hiroshima-size nuclear weapons, less than one-thousandth of the global nuclear arsenal, could lift millions of tonnes of dark smoke high into the atmosphere. There, it would abruptly cool and darken the planet, slashing rainfall and food production in successive years — and thus causing worldwide starvation on a scale never before witnessed.

This could result from the arsenals of any of the 10 currently nuclear-armed states, with the exception of North Korea.

Intent, miscalculation, technical failure, cyber attack, or accident could cause the nuclear escalation of a conflict between India and Pakistan, in the Middle East (embroiling Israel’s nuclear weapons), or on the Korean Peninsula. Such outcomes are at least as plausible or likely — if not more so — than a massive earthquake and tsunami causing widespread damage to four Japanese nuclear reactors and their adjacent spent-fuel ponds.

Bill leads to war

William Davnie, Former State Dept Officer, Chief of State at Iraq provincial office, 1/5/14, Iran sanctions bill threatens progress; pressure is on Franken, Klobuchar, http://www.startribune.com/opinion/commentaries/238660021.html

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

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

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

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

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

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

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

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

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

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

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

## turns econ

Middle East war causes oil shocks – collapses the economy and causes oil competition with China.

Marvin Cetron, President-Forecasting International and Owen Daniels, Fmr. Senior editor-Omni Magazine, 9/1/’7 (<http://www.mywire.com/a/TheFuturist/Worstcase-scenario-Middle-East-current/4296533?&pbl=7>)

\* Security risks continue with oil dependence. That leaves the matter of oil. The Middle East produces nearly 31% of the world's oil and consumes only one-fifth of its own output. About two-thirds of the petroleum used in the United States is imported. Perhaps one-fourth of that--around one-sixth of total consumption--comes from the Middle East. Japan imports all of its oil, most of it from the Middle East. Europe, India, and China all depend, to greater or lesser degrees, on Middle Eastern oil as well. If something disrupts the flow of almost one-third of the world's oil as a major war in the Middle East inevitably would, the cost of energy throughout the world will soar. This is a recipe for prolonged recession, and perhaps even depression, in the United States and most of its trading partners. In a recent New York Times op-ed (May 12, 2007), Thomas Friedman points out, "You can't be in favor of setting a date to withdraw from Iraq without also being in favor of a serious energy policy to radically reduce our dependence on oil--now." In the short run, healing the U.S. economy from the wounds inflicted by a sudden petroleum shortfall would mean accepting measures that many Americans would prefer to avoid. The United States could wind up competing with China for oil in totalitarian states that Washington currently shuns. It also might use its intelligence agencies to promote more favorable policies in Venezuela.

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Daremblum 11(Jaime, Hudson Institute senior fellow, 10/25/11, “Iran Dangerous Now, Imagine it Nuclear,” Real Clear World, accessed 10/3/13, <http://www.hudson.org/index.cfm?fuseaction=publication_details&id=8439>)

What would it mean if such a regime went nuclear? Let's assume, for the sake of argument, that a nuclear-armed Iran would never use its atomic weapons or give them to terrorists. Even under that optimistic scenario, Tehran's acquisition of nukes would make the world an infinitely more dangerous place. For one thing, it would surely spark a wave of proliferation throughout the Greater Middle East, with the likes of Turkey, Egypt, and Saudi Arabia - all Sunni-majority Muslim countries - going nuclear to counter the threat posed by Shiite Persian Iran. For another, it would gravely weaken the credibility of U.S. security guarantees. After all, Washington has repeatedly said that the Islamic Republic will not be permitted to get nukes. If Tehran demonstrated that these warnings were utterly hollow, rival governments and rogue regimes would conclude that America is a paper tiger. Once Tehran obtained nuclear weapons, it would have the ultimate trump card, the ultimate protection against outside attack. Feeling secure behind their nuclear shield, the Iranians would almost certainly increase their support for global terrorism and anti-American dictatorships. They would no longer have to fear a U.S. or Israeli military strike. Much like nuclear-armed North Korea today, Iran would be able to flout international law with virtual impunity. If America sought to curb Iranian misbehavior through economic sanctions, Tehran might well respond by flexing its muscles in the Strait of Hormuz. As political scientist Caitlin Talmadge explained in a 2008 analysis, "Iranian closure of the Strait of Hormuz tops the list of global energy security nightmares. Roughly 90 percent of all Persian Gulf oil leaves the region on tankers that must pass through this narrow waterway opposite the Iranian coast, and land pipelines do not provide sufficient alternative export routes. Extended closure of the strait would remove roughly a quarter of the world's oil from the market, causing a supply shock of the type not seen since the glory days of OPEC." Think about that: The world's leading state sponsor of terrorism has the ability to paralyze destabilize the global economy, and, if not stopped, it may soon have nuclear weapons. As a nuclear-armed Iran steadily expanded its international terror network, the Western Hemisphere would likely witness a significant jump in terrorist activity. Tehran has established a strategic alliance with Venezuelan leader Hugo Chávez, and it has also developed warm relations with Chávez acolytes in Bolivia, Ecuador, and Nicaragua while pursuing new arrangements with Argentina as an additional beachhead in Latin America Three years ago, the U.S. Treasury Department accused the Venezuelan government of "employing and providing safe harbor to Hezbollah facilitators and fundraisers." More recently, in July 2011, Peru's former military chief of staff, Gen. Francisco Contreras, told the Jerusalem Post that "Iranian organizations" are aiding and cooperating with other terrorist groups in South America. According to Israeli intelligence, the Islamic Republic has been getting uranium from both Venezuela and Bolivia. Remember: Tehran has engaged in this provocative behavior without nuclear weapons. Imagine how much more aggressive the Iranian dictatorship might be after crossing the nuclear Rubicon. It is an ideologically driven theocracy intent on spreading a radical Islamist revolution across the globe. As the Saudi plot demonstrates, no amount of conciliatory Western diplomacy can change the fundamental nature of a regime that is defined by anti-Western hatred and religious fanaticism.

## AT: U O/W

#### Iran sanctions is an ongoing showdown

Jennifer Rubin, 2/7/14, Menendez’s blasts Obama’s Iran policy, www.washingtonpost.com/blogs/right-turn/wp/2014/02/07/menendezs-blasts-obamas-iran-policy/

The administration has a big problem on Iran. It has for now successfully fended off sanctions, but in doing so it helped forge consensus about the flaws in its approach and set the scene for a major showdown with Congress when, as everyone but Secretary of State John Kerry expects, Iran refuses to agree to even minimal steps to dismantle its nuclear weapons program. In other words, it has set itself up for failure with no back-up plan. Thursday, Sen. Robert Menendez (D-N.J.), denied by his majority leader a vote on a sanctions bill that would pass with more than 70 votes, explained in detail the administration’s gross mishandling of negotiations. It is worth reading in full, but some portions deserve emphasis. After describing in detail the requirements the administration, the United Nations and former administration official Dennis Ross have confirmed are needed to prevent a nuclear-capable Iran, the New Jersey Democrat summed up the flaws in the interim deal:

#### Pro-sanction groups are only tactically retreating—they’ll pounce on the plan

Stephen Collinson, AFP, 1/29/14, Obama repels new Iran sanctions push... for now, news.yahoo.com/obama-repels-iran-sanctions-push-now-032127269.html

President Barack Obama appears to have prevailed, for now, in a campaign to stop Congress from imposing new sanctions on Iran he fears could derail nuclear diplomacy.

Several Democratic senators who previously backed a bipartisan sanctions bill publicly stepped back after Obama threatened a veto during his State of the Union address Tuesday.

Several sources familiar with behind-the-scenes maneuvring say a number of other Democratic senators signed up for more sanctions had privately recoiled from a damaging vote against their own president.

According to some counts in recent weeks, the measure had 59 likely votes, including 16 Democrats, and was even approaching a two-thirds veto-proof majority in the 100-seat Senate.

But **latest developments** appear to **have checked that momentum**.

"I am strongly supporting the bill but I think a vote is unnecessary right now as long as there's visible and meaningful progress" in the Iran negotiations, Senator Richard Blumenthal told AFP, after expressing reservations earlier this month.

Democratic Senator Chris Coons made a similar declaration at a post-State of the Union event hosted by Politico.

"Now is not the time for a vote on an Iran sanctions bill," he said.

Another Democratic Senator, Joe Manchin, hopes Senate Majority Leader Harry Reid will not bring it up.

"I did not sign it with the intention that it would ever be voted upon or used upon while we're negotiating," Manchin told MSNBC television.

"I signed it because I wanted to make sure the president had a hammer if he needed it and showed him how determined we were to do it and use it if we had to."

The White House mounted an intense campaign against a bill it feared would undermine Tehran's negotiators with conservatives back home or prompt them to ditch diplomacy.

Obama aides infuriated pro-sanctions senators by warning the measure could box America into a march to war to halt Tehran's nuclear program if diplomacy died.

The campaign included a letter to Reid from Democratic committee chairs urging a vote be put off.

Another letter was orchestrated from a group of distinguished foreign policy experts.

Multi-faith groups weighed in and coordinated calls from constituents backing Obama on nuclear diplomacy poured into offices of key Democrats.

The campaign appears for now to have overpowered the pro-sanctions push by hawkish senators and the Israel lobby, whose doubts on the Iran nuclear deal mirror those of Israeli Prime Minister Benjamin Netanyahu.

Senator Johnny Isakson, a Republican co-sponsor of the legislation, said: "It looks like we're kind of frozen in place."

Those behind the anti-sanctions campaign though privately concede they may have won a battle, not a war.

'A crucial victory'

**The push for new sanctions will flare again** ahead of the American Israel Public Affairs Committee's (AIPAC) annual conference in March, which Netanyahu is expected to address.

It could also recur if the talks with Iran on a final pact extend past the six-month window set by the interim deal.

But for now, groups that supported the push against sanctions are jubilant.

"This is a major victory, a crucial victory for the American public who don't want to see a war," said Kate Gould of the Friends Committee on National Legislation.

But she warned: "There'll be other efforts to try and sabotage the process."

#### It’s a question of momentum—that can still shift back

Sara Sorcher, National Journal, 1/29/14, Inhofe: Obama 'Naive,' but Winning, on Iran, www.nationaljournal.com/defense/inhofe-obama-naive-but-winning-on-iran-20140129

President Obama used his State of the Union address Tuesday to threaten a veto of any congressional plan to slap Iran with new sanctions, and he just might have gotten his way. The top Republican on the Senate Armed Services Committee thinks Obama is "naive" to believe the U.S. is having any "great success" in persuading Iran to curb parts of its nuclear program—**but he is not optimistic there's enough momentum in the Senate,** all told, **to ram through new sanctions against the wishes of the president.** "[Obama] said last night he would veto any [new sanctions]," Sen. Jim Inhofe said in an interview. "The question is, is there support to override a veto on that? I say, 'No.' " The Nuclear Weapon Free Iran Act, authored by two senators, Illinois Republican Mark Kirk and New Jersey Democrat Robert Menendez, has 59 cosponsors, and includes measures to punish Iran's oil industry if it breaches diplomatic commitments. Inhofe does not believe a vote now would result in the majority necessary to override a presidential veto, because enough Democrats would still side with their president. Even some of the Senate bill's Democratic cosponsors, including Joe Manchin of West Virginia and Christopher Coons of Delaware, have also backed away from the sanctions bill since Obama's speech, The Hill reported. In his address Tuesday night, Obama defended the interim deal, which he said "has halted the progress of Iran's nuclear program--and rolled parts of that program back--for the very first time in a decade." Iran has started eliminating its stockpile of higher levels of enriched uranium, Obama said, and is no longer installing advanced centrifuges. If diplomacy fails, then all options--presumably even military force--remain on the table, Obama promised. "I will be the first to call for more sanctions, and stand ready to exercise all options to make sure Iran does not build a nuclear weapon." Inhofe, though, isn't buying it. New Iranian President Hassan Rouhani is not to be trusted; inspections won't be enough, he said. "They," Inhofe said, referring to the Obama administration, "seem to think, for some reason, that this new president is a president they can talk to, and negotiate with…. This guy, I don't think we can trust him more than anybody else, [even former President Mahmoud] Ahmadinejad." Even though the momentum may be slipping, Inhofe said, Democrats loyal to Obama are quickly becoming "endangered species." So if talks between world powers and Iran fall apart, or new revelations emerge that Iran is breaking its diplomatic commitments, it's possible **the** political winds could shift**. For now, though, Obama may be in the clear**.

#### Even if sanctions never pass, GOP would push legislation to constrain negotiations

Laura Rozen, Al-Monitor, 2/4/14, US negotiator hears, amid skepticism, Senate support for diplomacy with Iran, backchannel.al-monitor.com/index.php/2014/02/7686/us-negotiator-hears-amid-skepticism-senate-support-for-iran-diplomacy/#more-7686

With support waning for Iran sanctions legislation, top US Iran negotiator Wendy Sherman and Treasury Undersecretary David Cohen testified on the Iran nuclear deal to the Senate foreign relations panel Tuesday.

Despite sinking prospects for the Iran sanctions bill he co-sponsored, Senate Foreign Relations Committee chair Robert Menendez (D-NJ) expressed continued deep skepticism about the terms of the interim Iran nuclear deal which went into effect on Jan. 20, **and to be looking for ways to constrain the administration’s hand for negotiating** a comprehensive Iran nuclear deal.

#### That kills negotiations

Ryan Costello, National Iranian American Council Policy Fellow, 1/29/14, Obama Warns Congress Off Iran Sanctions, www.huffingtonpost.com/ryan-costello/obama-warns-congress-off\_b\_4686422.html

Let's hope the president's message sinks in, because reflexive congressional support for punishing Iran regardless of the consequences remains one of the key obstacles to shattering 34 years of mutual enmity and securing a nuclear deal -- and the possibility of a brighter future for the people of the United States and Iran. Over the past few weeks, a determined push by Sens. Robert Menendez and Mark Kirk to impose new sanctions on Iran gathered 59 cosponsors (16 Democrats, 43 Republicans), before stalling in the face of determined opposition from Senate Democrats and the looming threat of a presidential veto. Now, cosponsors of the sanctions bill, including Sens. Joe Manchin and Richard Blumenthal have indicated that the bill shouldn't come up for a vote. Supporters are falling off, not joining. There were numerous problems with the Menendez-Kirk bill, including that it would violate the terms of the nuclear agreement by imposing new sanctions, despite the U.S. promising, along with our negotiating partners, to abstain from doing so in the first phase of the nuclear agreement. To delay the implementation of those sanctions, the president would have to certify measures above and beyond what Iran agreed to in the nuclear deal, including certifying that Iran is not conducting missile tests or supporting terrorist groups. Further, the bill would set unnecessary and unattainable red lines for a final deal, including that Iran must dismantle its entire enrichment infrastructure -- violating a clear Iranian red line in talks. Now opponents of diplomacy are seeking to scrap the sanctions provisions of the bill and move forward with congressional resolutions that define expectations for the end game. This would provide an opportunity for opponents of diplomacy and a nuclear deal -- both inside and outside Congress -- to sabotage negotiations by setting unrealistic expectations. Any language requiring Iran to dismantle facilities or certain numbers of centrifuges, for example, or mandating that Iran abandon any enrichment capacity -- would reduce leverage for a final deal and make one more difficult, if not impossible, to attain. Congress shouldn't make our negotiators' job more difficult than it already is. Ultimately, Congress needs to move away from threatening to play spoiler to making sure the President has the authority to leverage existing sanctions in exchange for concrete nuclear concessions. With decades of congressional sanctions on the books, including recent sanctions that only provide the president with temporary waiver authorities, Congress needs to work with the administration in order to obtain the authority to permanently lift sanctions to extract the best deal possible. Such a move would provide clear assurances that we can uphold our end of the bargain. Without those assurances, our negotiators have a weak hand and might only be able to obtain a weak and reversible deal that distances but fails to eliminate the threats of war and an Iranian nuclear weapon.

## \*Iran—AT: U O/W

#### The status quo is a decisive Obama victory, but that is dependent on Obama continually holding off the GOP push

Manu Raju, Politico, 2/6/14, Bill Clinton, AIPAC urge delay on Iran sanctions, dyn.politico.com/printstory.cfm?uuid=03CC0966-85FF-4C7D-B5CF-0CB46BFE0458

The White House’s push to delay an Iran sanctions vote got a big boost this week when both Bill Clinton and the powerful pro-Israel lobby AIPAC urged the Senate to hold off as diplomatic talks take shape. Together, Clinton and the American Israel Public Affairs Committee’s support of President Barack Obama’s position gives the White House key allies as it seeks to avoid a battle with Congress on the sensitive issue in an election year. Attending a private Senate Democratic retreat Wednesday night, Clinton urged lawmakers to allow negotiations over Iran’s nuclear program time to play out before moving forward on a bill to impose tough sanctions on the country, according to several people who attended the meeting. The White House has been warning lawmakers that passing sanctions legislation will blow up the sensitive diplomatic talks aimed at preventing Iran from developing a nuclear weapon. Hillary Clinton, too, is siding with President Barack Obama over the matter. A spokesman for the former president declined to comment. On Thursday, following a lengthy, nuanced floor speech by Senate Foreign Relations Chairman Robert Menendez (D-N.J.) about ongoing talks with Iran, AIPAC said in a statement that it believed now is not the time to move forward on a sanctions bill that both Iran and Obama have said would disrupt fragile diplomatic negotiations. “We agree with the Chairman that stopping the Iranian nuclear program should rest on bipartisan support and that there should not be a vote at this time on the measure. We remain committed to working with the Administration and the bipartisan leadership in Congress to ensure that the Iran nuclear program is dismantled,” AIPAC said in a statement. Menendez did not explicitly say on the Senate floor that he did not want an immediate vote, though he did warn against the Senate’s posture toward Iran becoming a “partisan process trying to force a vote on a national security matter before its appropriate time,” referring to a fresh Republican push for a vote on Menendez’s bill on Thursday. Led by Sens. Mark Kirk (R-Ill.) and Menendez, a large bipartisan group of senators has been pushing legislation to drastically limit Iran’s ability to export petroleum if the Islamic Republic breaks the conditions of an interim agreement or abandons a permanent nuclear deal with global powers. It also would require a dramatic rollback of Iran’s nuclear program as a condition for further lifting existing sanctions. But the White House is increasing pressure by urging Senate Democrats who back the bill to avoid acting until after the six-months of negotiations play out. After Obama made a similar case during his State of the Union address, several Democrats who back the sanctions bill — like Sen. Chris Coons of Delaware — privately urged party leaders to postpone a vote for now. “I think most of us feel these negotiations should have a chance,” Senate Majority Whip Dick Durbin (D-Ill.) said Thursday. “The alternative to Iran negotiations are to a nuclear-armed Iran, which is unacceptable, or a war, equally unacceptable. We have to give these negotiations a chance.” **As Democrats toned down their rhetoric,** Republicans have increasingly pushed Senate Majority Leader Harry **Reid** (D-Nev.) **to schedule a vote** on the issue, including in a Thursday letter to the Nevada Democrat, which was signed by 42 GOP senators. “**Now we have come to a crossroads**,” the Republicans wrote in the letter spearheaded by Kirk. “Will the Senate allow Iran to keep its illicit nuclear infrastructure in place, rebuild its teetering economy and ultimately develop nuclear weapons at some point in the future — or will the Senate stand firm on behalf of the American people and insist that any final agreement with Iran must dismantle the regime’s illicit nuclear infrastructure and preclude the world’s foremost state sponsor of terrorism from ever producing nuclear weapons?”

Kampeas evidence is about a loose coalition that is not defined in their ev – capital has been effective and it’s still key

Josh Kraushaar, National Journal, 11/22/13, The Iran Deal Puts Pro-Israel Democrats in a Bind, http://www.nationaljournal.com/magazine/the-iran-deal-puts-pro-israel-democrats-in-a-bind-20131122

All of this puts Democrats, who routinely win overwhelming support from Jewish Americans on Election Day, in an awkward position. Do they stand with the president on politically sensitive foreign policy issues, or stake their own course? That difficult dynamic is currently playing out in Congress, where the Obama administration is resisting a Senate push to maintain tough sanctions against Iran. This week, Obama met with leading senators on the Banking and Foreign Relations committees to dissuade them from their efforts while diplomacy is underway.

"There's a fundamental disagreement between the vast majority of Congress and the president when it comes to increasing Iran sanctions right now," said one Democratic operative involved in the advocacy efforts. "Pro-Israel groups, like AIPAC, try to do things in a bipartisan way; they don't like open confrontation. But in this instance, it's hard."

That awkwardness has been evident in the lukewarm reaction from many of Obama's Senate Democratic allies to the administration's outreach to Iran. Senate Foreign Relations Committee Chairman Robert Menendez of New Jersey said last week he was concerned that the administration seems "to want the deal almost more than the Iranians." Normally outspoken Sen. Chuck Schumer of New York, a reliable ally of Israel, has been conspicuously quiet about his views on the negotiations. In a CNN interview this month, Democratic Rep. Debbie Wasserman Schultz of Florida, whose job as chairwoman of the Democratic National Committee is to defend the president, notably declined to endorse the administration's approach, focusing instead on Obama's past support of sanctions. This, despite the full-court press from Secretary of State John Kerry, a former congressional colleague.

On Tuesday, after meeting with Obama, Menendez and Schumer signed a bipartisan letter to Kerry warning the administration about accepting a deal that would allow Iran to continue its nuclear program. The letter was also signed by Sens. John McCain, R-Ariz., Lindsey Graham, R-S.C., Susan Collins, R-Maine, and Robert Casey, D-Pa.

Democrats, of course, realize that the president plays an outsized role in the policy direction of his party. Just as George W. Bush moved the Republican Party in a more hawkish direction during his war-riven presidency, Obama is nudging Democrats away from their traditionally instinctive support for the Jewish state. "I can't remember the last time the differences [between the U.S. and Israel] were this stark," said one former Democratic White House official with ties to the Jewish community. "There's now a little more freedom [for progressive Democrats] to say what they want to say, without fear of getting their tuchus kicked by the organized Jewish community."

A Gallup survey conducted this year showed 55 percent of Democrats sympathizing with the Israelis over the Palestinians, compared with 78 percent of Republicans and 63 percent of independents who do so. A landmark Pew poll of American Jews, released in October, showed that 35 percent of Jewish Democrats said they had little or no attachment to Israel, more than double the 15 percent of Jewish Republicans who answered similarly. At the 2012 Democratic National Convention, many delegates booed a platform proposal supporting the move of the U.S. Embassy in Israel from Tel Aviv to Jerusalem. In 2011, Democrats lost Anthony Weiner's heavily Jewish, solidly Democratic Brooklyn House seat because enough Jewish voters wanted to rebuke the president's perceived hostility toward Israel.

Pro-Israel advocacy groups rely on the mantra that support for Israel carries overwhelming bipartisan support, a maxim that has held true for decades in Congress. But most also reluctantly acknowledge the growing influence of a faction within the Democratic Party that is more critical of the two countries' close relationship. Within the Jewish community, that faction is represented by J Street, which positions itself as the home for "pro-Israel, pro-peace Americans" and supports the Iran negotiations. "Organizations that claim to represent the American Jewish community are undermining [Obama's] approach by pushing for new and harsher penalties against Iran," the group wrote in an action alert to its members.

Some supporters of Israel view J Street with concern. "There's a small cadre of people that comes from the progressive side of the party that are in the business of blaming Israel first. There's a chorus of these guys," said a former Clinton administration foreign policy official. "But that doesn't make them the dominant folks in the policy space of the party, or the Hill."

Pro-Israel activists worry that one of the ironies of Obama's situation is that as his poll numbers sink, his interest in striking a deal with Iran will grow because he'll be looking for any bit of positive news that can draw attention away from the health care law's problems. Thus far, Obama's diminished political fortunes aren't deterring Democrats from protecting the administration's prerogatives. Congressional sources expect the Senate Banking Committee, chaired by South Dakota Democrat Tim Johnson, to hold off on any sanctions legislation until there's a resolution to the Iranian negotiations.

**But if Obama's standing continues to drop**, and if Israel doesn't like the deal, **don't be surprised to see Democrats become less hesitant about going their own way**.

#### Capital key

Peter Nicholas, WSJ, 1/21/14, The Missing Pieces in Obama’s Bully Pulpit, blogs.wsj.com/washwire/2014/01/21/the-missing-pieces-in-obamas-bully-pulpit/

Mr. Obama has never been one for strong-arm tactics: intimidating opponents or striking fear into lawmakers who’ve crossed him.  It’s not part of his emotional wiring.

Nor has he put much stock in seducing lawmakers in the manner, say, of a Lyndon Johnson.

**He prefers making a reasonable argument** that resonates with the broader public, pressuring Congress to fall in line.

Mr. Obama got a huge laugh at the [White House Correspondence Association dinner](http://blogs.wsj.com/washwire/2013/04/28/transcript-of-obamas-remarks-at-white-house-correspondents-dinner/) last year when he said: “Some folks still don’t think I spend enough time with Congress. ‘Why don’t you get a drink with [Senate Republican leader] [Mitch McConnell](http://topics.wsj.com/person/M/mitch-mcconnell/7788?lc=int_mb_1001)?’ they ask. Really? Why don’t you get a drink with Mitch McConnell?”

Robert Gates, the former defense secretary who served under both George W. Bush and Mr. Obama has just come out with a memoir describing his time in office. Meeting with reporters over breakfast last week, Mr. Gates said of Messrs. Bush and Obama: “They were neither much liked nor much feared on the Hill.”

With three years left in his presidency, White House advisers say Mr. Obama is charting a course that ensures his agenda won’t be hostage to a polarized Congress. He’ll make more use of his executive authority to curb global warming and boost the economy.

Yet the president won’t be able to bypass his legislative adversaries altogether. **He needs to fend off a push by some in Congress to impose new sanctions on Iran, a move that could complicate his efforts to thwart Iran’s nuclear program through diplomatic means**. He wants to pass an immigration bill, a promise left over from his 2008 campaign.

## Negotiations Work

#### Negotiations likely to succeed and be durable

Colin Kahl, 1/7/14, Still Not Time to Attack Iran, www.foreignaffairs.com/articles/140633/colin-h-kahl/still-not-time-to-attack-iran

In my article “Not Time to Attack Iran” (March/April 2012), I made the case for pursuing a diplomatic solution to the Iranian nuclear challenge, arguing that, because of the risks and costs associated with military action, “force is, and should remain, a last resort, not a first choice.” Key developments in 2013 -- namely, the election of Hassan Rouhani, a moderate, as Iran’s new president and the signing of an interim nuclear deal by Iran and the United States and its negotiating partners -- reinforce this conclusion. Whatever hawks such as Reuel Marc Gerecht or Matthew Kroenig might argue, it is still not time to attack Iran. Indeed, the prospects for reaching a comprehensive agreement to resolve the nuclear impasse peacefully, while far from guaranteed, have never been brighter. A LIGHT AT THE END OF THE TUNNEL After decades of isolation, the Iranian regime may finally be willing to place meaningful limits on its nuclear program in exchange for relief from punishing economic sanctions. In Iran’s June 2013 presidential election, Rouhani handily defeated a slate of conservative opponents, including the hard-line nuclear negotiator Saeed Jalili, who had campaigned on continuing Iran’s strategy of “nuclear resistance.” Rouhani, in contrast, pledged to reach a nuclear accommodation with the West and free Iran from the economic burden imposed by sanctions. Rouhani, also a former nuclear negotiator, believes he has the support of the Iranian people and a green light from Supreme Leader Ayatollah Ali Khamenei to reach a comprehensive nuclear accord with the United States and the other members of the P5+1 (Britain, China, France, Germany, and Russia). The first step on the road to a comprehensive deal came in November 2013 with an interim agreement in Geneva, in which Tehran agreed to freeze and modestly roll back its nuclear program in exchange for a pause in new international sanctions and a suspension of some existing penalties. The deal represents the most meaningful move toward a denuclearized Iran in more than a decade. It neutralizes Iran’s stockpile of 20 percent uranium and therefore modestly lengthens Iran’s “breakout” timeline -- the time required to enrich uranium to weapons grade -- by one or two months. A new inspections regime also means any breakout attempt would be detected soon enough for the international community to react, and expanded International Atomic Energy Agency (IAEA) access to Iran’s nuclear infrastructure will make it more difficult for Iran to divert critical technology and materials to new secret sites. The terms also preclude the new plutonium reactor at Arak from becoming operational, halting the risk that Iran could soon use plutonium to build a bomb. For all its good points, the interim agreement does not by itself resolve the Iranian nuclear challenge. Rather, the accord is designed to create at least a six-month diplomatic window (the initial period of the agreement), or longer if the agreement is extended, to negotiate a final, comprehensive solution. At the very least, U.S. officials have suggested that the ultimate deal must permanently cap Iran’s enrichment at five percent; substantially reduce Iran’s low-enriched uranium stockpile; place significant limits on the number of Iranian centrifuges and enrichment facilities; dismantle Arak or convert it to a proliferation-resistant light-water reactor; allow much more intrusive inspections of both declared and undeclared facilities; and account for the “past military dimensions” of Iran’s nuclear research. In exchange, Iran would receive comprehensive relief from multilateral and national nuclear- and proliferation-related sanctions. GOING FOR BROKE Some analysts argue that U.S. negotiators should use the leverage created by crippling economic sanctions and Iran’s apparent willingness to negotiate to insist on a total dismantling of Iran’s fuel-cycle activities. The maximalist approach is reflected in Israeli Prime Minister Benjamin Netanyahu’s stated requirements for a final deal: no uranium enrichment at any level, no stockpile of enriched uranium, no centrifuges or centrifuge facilities, and no Arak heavy-water reactor or plutonium reprocessing facilities. Attempting to keep Iran as far away from nuclear weapons as possible seems prudent and reasonable. It is imperative that any final deal prohibits Iran from possessing facilities that would allow it to produce weapons-grade plutonium, for example. But in reality, the quest for an optimal deal that requires a permanent end to Iranian enrichment at any level would likely doom diplomacy, making the far worse outcomes of unconstrained nuclearization or a military showdown over Tehran's nuclear program much more probable. Regardless of pressure from the United States, its allies, and the wider international community, the Iranian regime is unlikely to agree to end all enrichment permanently. Khamenei, the ultimate decider on the nuclear file, has invested far too much political capital and money (more than $100 billion over the years) in mastering enrichment technology and defending Iran's nuclear rights (defined as domestic enrichment). The nuclear program and “resistance to arrogant powers” are firmly imbedded in the regime’s ideological raison d’être. So, even in the face of withering economic sanctions, Khamenei and hard-liners within the Revolutionary Guard are unlikely to sustain support for further negotiations -- let alone acquiesce to a final nuclear deal -- if the end result reflects a total surrender for the regime. As Alireza Nader, an Iran analyst at the RAND Corporation, observes, “[S]anctions are a danger to their rule, but weakness in the face of pressure might be no less a threat.” Nor are Rouhani and his negotiating team likely to agree to halt enrichment or advocate for such a policy, since doing so would be political suicide. In 2003, during Rouhani’s previous role as Iran's chief nuclear negotiator, he convinced Khamenei to accept a temporary suspension of enrichment. But further talks with the international community stalled in early 2005 over a failure to agree on Iran’s asserted right to enrichment, and Tehran ended its suspension shortly thereafter. Rouhani is unlikely to let that happen again.

PLAYING CHICKEN Given the certainty that Iran will reject maximalist demands from the United States, the United States should only make such demands if it is willing to go to the brink of the abyss with Iran, escalating economic and military threats to the point at which the regime’s survival is acutely and imminently in danger. Yet pursuing such a high-risk strategy is unlikely to succeed, and the consequences of failure would be profound. First, it is unclear whether any escalation of sanctions could bring the regime to its knees in time to prevent Iran from achieving a breakout capability. Iran’s apparent willingness to negotiate under pressure is not, in and of itself, evidence that more pressure will produce total surrender. Iran’s economy is in dire straits, but the country does not appear to be facing imminent economic collapse. Khamenei and the Revolutionary Guard also seem to believe that the Islamic Republic weathered far worse during the Iran-Iraq War, an eight-year conflict that killed hundreds of thousands of Iranians and produced over half a trillion dollars in economic losses before Iran agreed to a cease-fire. Even if Washington goes forward with additional sanctions, economic conditions are not likely to produce enough existential angst among Iranian leaders, generate mass unrest, or otherwise implode the regime before Iran achieves a nuclear breakout capability. And even if they did lead to regime change, it still might not prove sufficient to force a nuclear surrender. After all, the imprisoned leaders of the Green Movement and Iranian secularists opposed to the Islamic Republic, as well as a significant majority of the Iranian people, also support Iran’s declared right to enrichment. Second, and somewhat paradoxically, ramping up sanctions to force regime capitulation now could end up weakening international pressure on Iran. For better or worse, Rouhani has already succeeded in shifting international perceptions of Iran. If the United States, rather than Iran, comes across as intransigent, it will become much more difficult to maintain the international coalition currently isolating Tehran, particularly on the parts of China, Russia, and numerous other European and Asian nations. Some fence sitters in Europe and Asia will start to flirt with Iran again, leaving the United States in the untenable position of choosing between imposing extraterritorial sanctions on banks and companies in China, India, Japan, South Korea, Turkey, and elsewhere, or acquiescing to the erosion of the international sanctions architecture. Third, issuing more explicit military threats (through public warning by U.S. President Barack Obama or congressional passage of a resolution authorizing the use of military force, for example) is also unlikely to achieve a maximalist diplomatic outcome. There is little doubt that maintaining a credible military option affects the Iranian regime’s calculations, raising the potential costs associated with nuclearization. And if diplomacy fails, the United States should reserve the option of using force as a last resort. But threats to strike Iranian nuclear sites surgically, no matter how credible, would not create a sufficient threat to the survival of the regime to compel it to dismantle its nuclear program completely. Finally, attempting to generate an existential crisis for the Islamic Republic could backfire by increasing the regime’s incentives to acquire nuclear weapons. If the United States escalates economic or military pressure at the very moment when Iran has finally begun to negotiate in earnest, Khamenei will likely conclude that the real and irrevocable goal of U.S. policy is regime change. Solidifying this perception would enhance, rather than lessen, Tehran’s motivation to develop a nuclear deterrent. In short, playing chicken with Iran will not work and is likely to result in a dangerous crash. Gambling everything by insisting on an optimal deal could result in no deal at all, leaving Iran freer and potentially more motivated to build atomic arms and making a military confrontation more likely. STILL TIME FOR DIPLOMACY During a December 2013 forum hosted by the Brookings Institution, Obama said, “It is in America’s national security interests . . . to prevent Iran from getting a nuclear weapon. . . . But what I’ve consistently said is, even as I don’t take any options off the table, what we do have to test is the possibility that we can resolve this issue diplomatically.” When asked by a former Israeli general in the audience what he would do if diplomacy with Iran breaks down, Obama said, “The options that I’ve made clear I can avail myself of, including a military option, is one that we would consider and prepare for.”

Given the dangers associated with a nuclear-armed Iran, Obama is right to keep the military option alive. But he is also right to strongly prefer a diplomatic outcome. **Leadership changes in Tehran and the diplomatic momentum created by the Geneva interim accord mean that there is a real chance that the Iranian nuclear crisis** -- a challenge that has haunted the international community for decades -- **could finally be resolved peacefully**. No one can say for sure how high the odds of success are. But given the enormous dangers associated with both an Iranian bomb and the bombing of Iran, it is imperative to give diplomacy every chance to succeed.

## AT: Sanctions Don’t Collapse Negotiations

#### New sanctions cause negotiation collapse and Iranian nuclear breakout

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

Given profound reasons for the regime to reject a maximalist deal, pursuing one would require the United States to go to the brink of the abyss with Iran, escalating economic and military threats to the point that the regime’s survival was acutely and imminently at stake.15 Yet **pursuing** **such a high-risk strategy is unlikely to succeed, and the consequences of failure would be profound**.

First, it is unclear if any escalation of sanctions could bring the regime to its knees in time to prevent Iran from achieving a breakout capability. Although some analysts believe Tehran is on the ropes and that additional sanctions can force Iran to completely dismantle its nuclear program, they rarely explain how more sanctions would produce a sufficient threat to the regime fast enough to prevent Iran from crossing critical nuclear thresholds.16 Iran’s apparent willingness to negotiate under pressure is not, in and of itself, evidence that more pressure will produce total surrender on the nuclear issue. There must be a mechanism to produce a regime crisis – and it must happen fast enough. Yet, while Iran’s economy is in dire straits, the country does not appear to be facing imminent economic collapse.17 Khamenei and the Revolutionary Guard also seem to believe that the Islamic Republic weathered worse during the Iran-Iraq war, an eight year conflict that killed hundreds of thousands of Iranians and produced over half a trillion dollars in economic losses before Iran agreed to a ceasefire. Even if Congress goes forward with additional harsh sanctions, economic conditions are not likely to produce enough existential angst among Iranian leaders, generate mass unrest, or otherwise implode the regime before Iran achieves a nuclear breakout capability. And even if the regime miraculously fell, it still might not prove sufficient to force a nuclear surrender. After all, the imprisoned leaders of the Green Movement and Iranian secularists opposed to the Islamic Republic also support Iran’s declared right to enrichment.18 Therefore, if preventing nuclear breakout is an urgent priority, it would be advisable to pursue a framework that can realistically achieve that objective over the next year rather than gambling on a maximalist strategy that is unlikely to work and almost certainly will not work in time.

Second, and somewhat paradoxically, **escalating sanctions at this moment could actually end up weakening international pressure on Iran**. For better or worse, Rouhani has already succeeded in shifting international perceptions of Iran. If the United States, rather than Iran, comes across as the intransigent party, it will become much more difficult to maintain the international coalition currently isolating Tehran. In particular, if negotiations on a comprehensive framework collapse because of Washington’s unwillingness to make a deal on limited enrichment – a deal Russia and China and numerous other European and Asian nations support – it will likely become much harder to enforce sanctions. Some fence sitters in Europe and Asia will start to flirt with Iran again, leaving the United States in the untenable position of choosing between imposing extraterritorial sanctions on banks and companies in China, India, Japan, South Korea, Turkey and elsewhere, or acquiescing to the erosion of the comprehensive sanctions regime.

Third, issuing more explicit military threats (through a possible authorization of the use of military force, for example) is also unlikely to achieve a maximalist diplomatic outcome. There is little doubt that maintaining a credible military option affects the Iranian regime’s calculations, raising the potential costs associated with nuclearization. And, if diplomacy fails, the United States should reserve the option of using force as a last resort to preclude Iran from developing nuclear weapons. But short of invading, occupying and imposing regime change, threats to surgically strike Iranian nuclear sites, no matter how credible, would not hold the regime sufficiently at risk to compel them to completely dismantle their nuclear program.

Finally, attempting to generate an existential crisis for the Islamic Republic could **backfire by increasing the regime’s incentives to acquire nuclear weapon**s**. This § Marked 21:06 § is especially true in the current diplomatic context. If the United States escalates economic** or military **pressure at the very moment that Iran has begun to finally negotiate in earnest, Khamenei will likely conclude that the real and irrevocable goal of U.S. policy is regime change rather than a nuclear accord**.19 Solidifying this perception would enhance, rather than lessen, Tehran’s motivation to develop a nuclear deterrent as the only means of ensuring regime survival.

In short, “playing chicken” with Iran in pursuit of maximalist goals is not likely to work. Gambling everything by insisting on an optimal deal could very likely result in no deal, leaving Iran freer and potentially more motivated to build atomic arms.

## crowd out

Limiting drone authority causes a congressional-executive turf war.

**Berger 8/12/13** (Judson, Fox, “Yemen drone strikes may revive war-powers battle between administration, Congress”, <http://www.foxnews.com/politics/2013/08/12/yemen-drone-strikes-could-revive-war-powers-battle-between-administration/>, ZBurdette)

The escalation of drone strikes in Yemen, presumably in response to the ongoing Al Qaeda threat, and other technology-based military options could fuel calls to re-write laws that govern such actions to give Congress greater oversight over the administration's remote-controlled warfare.

"Some of these campaigns by the administration clearly constitute an act of war," said Jonathan Turley, an attorney and professor at George Washington University Law School.

To date, the administration has claimed broad latitude in its authority to launch limited military operations -- including drone strikes -- without congressional authorization. There's no indication this time will be any different.

A total of nine suspected drone strikes reportedly have been recorded in Yemen since late July, taking out dozens of alleged Al Qaeda operatives and other militants. The most recent strike was on Saturday. The Washington Post reported last week that the strikes were authorized by the Obama administration in connection with the ongoing terror threat.

If challenged on the strikes, the president is likely to argue that the operation is contained and does not require congressional authorization. He has in the past.

This debate flared during the 2011 operation in Libya, when the administration launched a series of air and drone strikes in support of the campaign against Muammar Qaddafi.

Fight is negative – destroys credibility

**Kriner 10** (Douglas, assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

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 § Marked 21:07 § . 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.59 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. 60 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 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 proprieties, such as Social Security and immigration reform, failed perhaps 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.61 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.

#### The plan’s restriction on Obama’s authority independently scuttles negotiations—Rouhani won’t see executive commitments as credible

Jon Alterman, CSIS Global Security Chair and Middle East Program Director, 9/4/13, US-Iran Nuclear Deal Hinges On Syria Vote, www.al-monitor.com/pulse/originals/2013/09/us-iran-nuclear-deal-hinges-on-syria-vote.html

**Focusing** solely **on** events in **Syria**, **however, misses a large part of the Iranian calculus, ifa not the largest**. What really matters to Iran is how successful Obama is in winning congressional support for his Syria policy. If he fails, it will deal a double blow to the president. Not only will the Iranian government dismiss the possibility of negotiations with his administration, it will also **conclude that Obama can be defied with impunity**. The international cost of domestic political failure would be profound.

To start, it is worth noting the extent to which foreign governments are sophisticated consumers of American political information. Decades of international cable news broadcasts and newspaper websites have brought intimate details of US politics into global capitals. Foreign ministers in the Middle East and beyond are US news junkies, and they seem increasingly distrustful of their embassies. For key US allies, the foreign minister often seems to have made him- or herself the US desk officer. Most can have a quite sophisticated discussion on congressional politics and their impact on US foreign relations.

The Iranian government is no exception. While former president Mahmoud Ahmedinejad was emotional and shrill in his opposition to the United States, there remains in Iran a cadre of Western-trained technocrats, fluent in English and nuanced in their understanding of the world. President Hassan **Rouhani has surrounded himself with such people**, and Supreme Leader Ayatollah Ali Khamenei has charged them with investigating a different relationship between Iran and the United States.

As they do so, they cannot help but be aware that on the eve of Rouhani’s inauguration, the US House of Representatives voted 400–20 to impose stiff additional sanctions on Iran. The House saw Rouhani’s electoral victory as a call for toughness, not potential compromise.

If Iran were to make concessions in a negotiation with the United States, they would surely seek sanctions relief and other actions **requiring congressional approval**. To make such concessions to Obama, they would need some confidence that he can deliver. **A president who cannot bring around** a hostile **Congress is not a president with whom it is worth negotiating**.

## Link Uniqueness

#### Obama avoiding controversial fights and loses

Darrell Delamaide, Market Watch, 1/29/14, Obama’s State of the Union: The Audacity of Caution, www.marketwatch.com/story/obama-skirts-controversy-in-timid-election-year-speech-2014-01-29?pagenumber=1

The speech, in short, followed the “first, do no harm” principle. With Democrats facing an uphill battle in midterm elections this year to retain control of the Senate and hold their own in the House, Obama seemed determined to do no further damage to the Democratic brand.

By the same token, he was not whiny or apologetic or resigned. Limited as the scope for action through executive order is, it at least keeps him from appearing as a loser in his battle with Republican lawmakers.

He did call on Congress to restore long-term unemployment insurance that just expired for 1.6 million people and to expand the earned income tax credit. And he promised to veto any bill that sought to impose new sanctions on Iran while the administration is negotiating a way to contain that country’s nuclear program.

It was a cautious, even timid, speech from a politician whose modus operandi — aside from sweeping rhetoric in his presidential campaigns — has been very cautious.

This State of the Union was seen by many as Obama’s last chance to give himself some breathing room in his second term to cement his legacy. With its upbeat and confident tone, its determination to avoid confrontation and skip over controversy, it may have — barely — done that.

## at: midterms

Too far away

Kristen Soltis Anderson, 1/23/14, It’s 1,000 Days Too Early to Talk Hillary vs. Christie for President, www.thedailybeast.com/articles/2014/01/23/it-s-1-000-days-too-early-to-talk-hillary-vs-christie-for-president.html

More than 1,000 days remain until voters elect the 45th President of the United States, but you’d never know it by turning on the news.

This week, Chris Christie took the oath of office to start his second term as governor of New Jersey, as a bipartisan probe investigates allegations about a shutdown of the George Washington Bridge and claims by the mayor of Hoboken that Sandy aid funds were tied to a development project. His status as a 2016 frontrunner has already made him a top target of the left and a headline maker, for better or worse. While raising money for Florida Governor Rick Scott down in the Sunshine State this past weekend, Christie’s controversy and star-status led DNC Chairwoman Debbie Wasserman-Schultz to shadow him around, harping on allegations in a controversy happening in a state 2,000 miles away.

Meanwhile, no news story these days is without a potential hook to Hillary Clinton, whether the release of a Benghazi report or a discussion of First Ladies’ 50th Birthdays. Even her unofficial campaign apparatus is getting the star treatment, and she’s evidently already test-driving potential messages for her presidential bid.

Democrats have taken square aim at Christie, and Hillary is of course the focus of a great number of Republican efforts that hope to stop her ascent to the White House. As a result, every new poll that comes out about a Christie vs. Hillary 2016 hypothetical showdown stirs the pot and presumes to offer a glimpse into our political future.

Tuesday, Quinnipiac released a new national poll showing Christie falling out of the lead in the GOP primary, dipping from 17 percent to 12 percent among Republican voters since mid-December. (At the same time, the number who say they are undecided increased five points to 22 percent.)

Hillary Clinton, firmly atop the Democratic field, defeats Christie by eight points in a hypothetical matchup, a shift from Christie’s slim advantage from December. She holds a larger margin against other Republican contenders like Sens. Rand Paul and Ted Cruz, but this is consistent with the earlier polls, suggesting that the only real change in the 2016 race in the last month has been Chris Christie’s standing.

So Christie is toast? Not so fast.

Here’s a little context. Let’s take a journey back to the early days of 2006. At this stage in the game, Clinton held a commanding lead over her Democratic opponents, with CNN/USA Today’s polling at the time showing her with 39 percent of the Democratic primary vote. She was trailed distantly by John Kerry at 15 percent, Al Gore at 13 percent, and John Edwards at 12 percent. Mark Warner and Joe Biden each garnered 5 percent. Of those, of course, only two would actually go on to challenge Hillary for the nomination, with one winding up a laughingstock and the other winding up as vice president. Barack Obama was not even an option. In fact, CNN’s polling did not add him to their list of choices for president until October of that year, after his announcement that he would be exploring a bid (PDF). Or let’s consider the complete insanity of the polling of the 2012 Republican field, where everybody (besides, I suppose, Jon Huntsman) got their moment at the front of the pack, even as the primaries themselves were unfolding. While Mitt Romney was very slightly ahead in early 2010, roughly a thousand days out from Election Day, polls at that point still included many names of those who wouldn’t ultimately run, and missed many names of those who would. (PDF) All of which is to say that it is entirely possible that the next president is not even being mentioned in the current polls. Looking back on overly early polling in the last two presidential cycles **is a comedic exercise**, full of ultimately **useless data** about § Marked 21:08 § men and women who would never dive into the race (and therefore equally useless data about the prospects of the men and women who would). Getting a good laugh from the comedy of old polls isn’t a knock against the pollsters themselves; they were doing the best research they could with the names they figured might run at the time. But it is illuminating, and means that any conclusions about a particular candidate’s presidential fortunes ought to be taken with an enormous grain of salt. Clinton is formidable but not inevitable. Christie is still relatively unknown to a large swath of the electorate and his fortunes could break any number of ways. And again, our next President could be someone whose name isn’t even in the conversation today. **The truth is** we don’t have a clue **how 2016 is going to turn out. And with over a thousand days to go, that’s perfectly OK.**