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## 1

Plan destroys war powers

Kriner ‘9

Douglas, Assistant Professor of Political Science, Boston University, “CAN ENHANCED OVERSIGHT REPAIR “THE BROKEN BRANCH”?,” <http://www.bu.edu/law/central/jd/organizations/journals/bulr/volume89n2/documents/KRINER.pdf>

The presumption is widespread that through rigorous oversight of the executive branch Congress can maintain a degree of influence over policymaking, **even in an era of expanded presidential powers** and broad delegations of authority to the executive branch. Immediately after the Democratic takeover of both houses of Congress in 2006, California Congressman Henry Waxman argued that investigations may be "just as important, if not more important, than legislation." n75 Similarly, in academic circles Thomas Mann spoke for many when he argued that the rise of oversight in the 110th Congress "has been the most important change since the 2006 election in terms of relations between the Congress and the administration." n76 However, the precise mechanisms through which oversight alone can influence executive behavior and the course of policymaking are frequently ignored. Recommendations by oversight committees are nonbinding and have no force of law. Congress does have budgetary control over executive departments and agencies, an important means of leverage. However, as noted [\*785] by skeptics of congressional dominance theories in the literature on bureaucratic control, budgetary tools are somewhat clumsy instruments for encouraging greater executive compliance with legislative intent. n77 Moreover, oversight committees themselves normally lack appropriations authority, which diminishes the credibility of any threatened committee sanctions for noncompliance. n78 Indeed, in most situations an oversight committee's only formal recourse is to propose new legislation that would legally compel a change in course. However, such efforts are subject to the collective action dilemma and intricate procedures riddled with transaction costs and super-majoritarian requirements, not to mention a presidential veto. n79 If oversight can only constrain executive branch activities through such formal mechanisms, then there are strong reasons to question whether it can truly serve as a real constraint on the executive's freedom of action. And if it does not, then oversight is merely inconsequential position-taking, not a tool for continued congressional influence over policymaking when legislative options fail. However, there are **strong theoretical** reasons and growing **empirical evidence** to suggest that congressional oversight can influence executive branch behavior through more informal means. Vigorous congressional oversight can **inform** policy discourse, **influence** public opinion **and bring** popular pressure to bear on the executive to change course. In David Mayhew's words, members of Congress can wield considerable influence not only by legislating, but also by "making moves" in what he terms the "public sphere." n80 Surveying over 200 years of congressional history, Mayhew identified more than 2300 "actions" members of Congress have taken in the public sphere in an attempt to shape the national policy discourse and mobilize popular opinion. n81 Again and again, oversight and investigative committee hearings have served as a critically important forum in which members of Congress take stands, stake out positions in contrast to those of the executive branch, and battle for influence over the attentive public. As a result, Mayhew argues that "the politics involving members of Congress needs to be modeled not just as opinion expression - the custom in political science analysis - but also as opinion formation." n82 [\*786] But can congressional oversight really influence public opinion? After all, the vast majority of Americans rarely tune to C-SPAN to catch the latest proceedings from hearing rooms in the Russell or Cannon congressional buildings. However, Congress may have an important ally in the mass media, which aids them in their quest to reach a broader audience. A large literature within political communications suggests that the media "indexes" the scope and tone of its coverage to the political debate in Washington, particularly in Congress. n83 Moreover, many congressional hearings are **made-for-television events** and are consciously designed to generate conflict. Conflict, according to many journalistic norms, is inherently newsworthy, and thus the press may play an important role in amplifying the congressional challenge to administration policies and actions and in broadening the audience such congressional cues reach. n84 A number of recent studies have found strong empirical evidence that the positions articulated in Congress may indeed have a considerable influence on public opinion, particularly in questions of military policy. n85 Many studies rely on observational data. n86 Matthew Baum and Tim Groeling's research demonstrates strong correlations between media-reported congressional rhetoric surrounding multiple major military missions in the last quarter century and popular support for those endeavors. n87 However, such studies relying exclusively on observational data usually only demonstrate correlations between congressional actions and public opinion. If this relationship is endogenous - that is, if members of Congress respond to public opinion when crafting their rhetoric and actions even as they seek to lead it - then raw correlations between the two tell us little about the direction of the causal [\*787] arrow. n88 Is Congress leading public opinion, or are shifts in public opinion producing changes in congressional positions?

Spills-over to collapse prez powers

Klukowski 11 (Kenneth, Research Fellow, Liberty University School of Law; Fellow and Senior Legal Analyst, American Civil Rights Union; National-Bestselling Author. George Mason University School of Law, J.D. 2008; University of Notre Dame, B.B.A. 1998, “MAKING EXECUTIVE PRIVILEGE WORK: A MULTI-FACTOR TEST IN AN AGE OF CZARS AND CONGRESSIONAL OVERSIGHT” 2011, 59 Clev. St. L. Rev. 31)

VI. CONCLUSION

Most controversies between Congress and the White House over information are decided more by politics than by law, and so a settlement is usually reached favoring the party with the public wind to its back. n348 **Questions of law should not be decided in that fashion**. Therefore, the reach and scope of executive privilege should be settled by the courts in such situations, so that the President's power is not impaired whenever the political wind is in the President's face and at his opponents' backs, or the President is inappropriately shielded when political tides flow in his favor.

While the best outcome in any interbranch dispute is the political branches reaching a settlement, "such compromise may not always be available, or even desirable." n349 It is not desirable where it sets a precedent **that** degrades **one of the three branches of government. If one branch of government demands something to which it is not constitutionally entitled and that the Constitution has fully vested in a coequal branch, the vested branch should not be required to negotiate on the question**. Negotiation usually involves compromise. This negotiation would often result in one branch needing to cede to the other**,** encouraging additional unconstitutional demands in the future. Though this may perhaps be a quicker route to a resolution, it disrupts the constitutional balance in government. As the Supreme Court has recently explained, "'convenience and efficiency are not the primary objectives--or the hallmarks--of democratic government.'" n350

President Reagan declared that "you aren't President; you are temporarily custodian of an institution, the Presidency. And you don't have any right to do away with any of the prerogatives of that institution, and one of those is executive privilege. And **this is what was being attacked** by the Congress." n351 Thus, any White House has the obligation to fight to protect executive privilege, and the courts should draw the line to preserve that constitutional prerogative. Likewise, there are times when it is the President who is refusing to give Congress its due under the Constitution, where Congress must assert its prerogatives for future generations. Conversely, where confidentiality is not warranted, courts must ensure public disclosure and accountability.

Extinction

Paul 98 (Joel, Professor, University of Connecticut School of Law, “The Geopolitical Constitution: Executive Expediency and Executive Agreements” July, 1998, 86 Calif. L. Rev. 671) \*\*Footnote 137-139 added

Whatever the complexity of causes that led to the Cold War - ideology, economics, power politics, Stalin's personality, Soviet intrigue, or American ineptitude - the tension of the bipolar order seemed real, immutable, and threatening to the U.S. public. n135 The broad consensus of U.S. leadership held that **the immediacy of the nuclear threat**, the need for covert operations and intelligence gathering, and the complexity of U.S. relations with both democracies and dictatorships **made it impractical to engage in congressional debate and oversight of foreign policy-making**. n136 The eighteenth-century Constitution did not permit a rapid response to twentieth-century foreign aggression. The reality of transcontinental ballistic missiles collapsed the real time for decision-making to a matter of minutes. **Faced with the apparent choice between the** risk of nuclear annihilation **or amending the constitutional process for policy-making, the preference for a powerful executive was clear**. n137 Early in the Cold War one skeptic of executive power, C.C. Rossiter, acknowledged that the steady increase in executive power is unquestionably a cause for worry, but so, too, is the steady increase in the magnitude and complexity of the problems the president has been called upon by the American people to solve in their behalf. They still have more to fear from the ravages of depression, rebellion, and especially atomic war than they do from whatever decisive actions may issue from the White House in an attempt to put any such future crises to rout....It is not too much to say that **the destiny of this nation in the Atomic Age will rest in the** [\*700] **capacity of the Presidency** as an institution of constitutional dictatorship. n138 n137. President Truman warned that we live in an age when hostilities begin without polite exchanges of diplomatic notes. There are no longer sharp distinctions between combatants and noncombatants, between military targets and the sanctuary of civilian areas. Nor can we separate the economic facts from the problems of defense and security. [The] President, who is Comander in Chief and who represents the interests of all the people, must be able to act at all times to meet any sudden threat to the nation's security. 2 Harry S. Truman, Memoirs: Years of Trial and Hope 478 (1956) (commenting on the Court's decision in the Steel Seizure Case). n138. Rossiter, supra note 54, at 308-09. n139. President Truman warned that **upon the functioning of a strong executive "depends the** survival of each of us **and also on that depends the survival of the free world**." The Powers of the Presidency 114 (Robert S. Hirschfield ed., 1968). See also, e.g., Speech by John F. Kennedy delivered to the National Press Club (Jan. 14, 1960), in Hirschfield, supra, at 129-31; Congress, the President, and the War Powers: Hearings Before the Subcomm. on Nat'l Sec. Policy and Scientific Developments of the House Comm. on Foreign Affairs, 91st Cong. 12-13 (1970) (statement of McGeorge Bundy, President, Ford Foundation); Congressional Oversight of Executive Agreements: Hearings on S. 3475 Before the Subcomm. on Separation of Powers of the Senate Comm. of the Judiciary, 92d Cong. 237-40 (1972) (statement of Nicholas Katzenbach, Former Attorney General and Former Undersecretary of State).

## 2

The executive branch of the United States should issue and enforce an executive order to cease the use of credibility as a national interest for justification of Presidential War Powers Authority to introduce armed forces into hostilities.

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

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

It’s binding law that solves the aff.

Graham Dodds, Ph.D., Concordia professor of political science, 2013, Take Up Your Pen: Unilateral Presidential Directives in American Politics, p. 10

If executive orders, proclamations, memoranda, and other unilateral presidential directives merely expressed the president's view, then they would be important but not necessarily determinative. **However, these directives are not mere statements of presidential preferences; rather, they establish** binding policies and have the force of law**, ultimately** backed by the full coercive power of the state. In Armstrong v. United States, 80 U.S. (13 Wall.) 154 (1871), the Supreme Court considered the legal status of a proclamation and decided that such directives are public acts to which courts must “give effect.” In other words, in the eyes of the judiciary, unilateral presidential directives are just as binding as laws. In 1960, Senator Robert Byrd (D-WV) advised his colleagues, “Keep in mind that an executive order is not statutory law.” 46 Politically, that may be true, as unilateral presidential directives represent the will only of the chief executive and lack the direct endorsement of congressional majorities. But constitutionally and legally**, a unilateral presidential directive is** as authoritative and compulsory as a regular law, at least until such time as it is done away with by Congress, courts, or by a future unilateral presidential directive.

## 3

NSA reform is in a narrow Congressional sweet spot

David Hawkings, Roll Call, 3/25/14, Hill’s Bipartisan Deadlock on Phone Records May Be Easing, blogs.rollcall.com/hawkings/obama-nsa-reform-plan-could-ease-congressional-deadlock-on-spying/2/

Eight months ago, in one of its most important and fascinatingly nonpartisan votes of recent memory, the House came up just seven members short of eviscerating the government’s vast effort to keep tabs on American phone habits. The roll call revealed a profound divide in Congress on how assertively the intelligence community should be allowed to probe into the personal lives of private citizens in the cause of thwarting terrorism. It is a split that has stymied legislative efforts to revamp the National Security Agency’s bulk data collection programs. Until now, maybe. Senior members with jurisdiction over the surveillance efforts, in both parties and on both sides of the Hill, are signaling generalized and tentative but nonetheless clear support for the central elements of a proposed compromise that President Barack Obama previewed Tuesday and will formally unveil by week’s end. The president, in other words, may be close to finding the congressional sweet spot on one of the most vexing problems he’s faced — an issue that surged onto Washington’s agenda after the secret phone records collection efforts were disclosed by former NSA contractor Edward Snowden. If Obama can seal the deal, which he’s pledged to push for by the end of June, it would almost surely rank among his most important second-term victories at the Capitol. It also would create an exception that proves the rule about the improbability of bipartisan agreement on hot-button issues in an election season.

“I recognize that people were concerned about what might happen in the future with that bulk data,” Obama said at a news conference in The Hague, where he’s been working to gain support for containing Russia from a group of European leaders who have their own complaints about U.S. spying on telephone calls. “This proposal that’s been presented to me would eliminate that concern.” The top two members of the House Intelligence Committee, GOP Chairman Mike Rogers of Michigan and ranking Democrat C.A. Dutch Ruppersberger of Maryland, introduced their own bill to revamp surveillance policy Tuesday — and declared they expect it would track very closely with the language coming from the administration. They said they had been negotiating with White House officials for several weeks and viewed the two proposals as compatible. At their core, both the Obama and House bills would end the NSA practice of sucking up and storing for five years the date and time, duration and destination of many millions of phone calls placed or received by Americans. Instead, the phone companies would be required to retain this so-called metadata (and comparable information about email and Internet use) for 18 months, their current practice. And the government would have to obtain something like a search warrant from the Foreign Intelligence Surveillance Court, meaning in each discreet case a judge would limit how deeply the telecom companies would have to query their databases in hopes of finding calling patterns that suggest national security threats. Since both Rogers and Ruppersberger have been prominent defenders of the bulk collection system, any agreement they reach that has Obama’s blessing can be expected to pass the House. It should garner support from a lopsided majority of the 217 House members (three-fifths of the Republicans and two-fifths of the Democrats) who voted to stick with the status quo last July. And it stands a chance to win over at least some on the other side — an unusual coalition of 94 mostly libertarian-leaning tea party Republicans and 111 liberal Democrats, who say NSA searches of the databases should be limited to information about existing targets of investigations. But one leader of that camp vowed to work for the defeat of any measure that looks like either the Obama or Intelligence panel plans. Republican Rep. Jim Sensenbrenner of Wisconsin, who as chairman of House Judiciary a decade ago was instrumental in writing the Patriot Act, believes that law has been grossly misapplied by the NSA to invade personal privacy much too easily. Sensenbrenner said he would continue to push his measure to almost entirely prevent the NSA from looking at telecommunications metadata. But the sponsor of the companion Senate bill, Judiciary Chairman Patrick J. Leahy, D-Vt., said he would remain open to finding the makings of a deal in the Obama plan. Leahy signaled the legislative negotiating would be much smoother if Obama suspended the bulk data collection during the talks. Much more enthusiastic was Calfornia’s Dianne Feinstein, the Democratic chairwoman of the Senate Intelligence Committee, who said she generally supports the House proposal and views Obama’s plan “a worthy effort.” Her committee’s top Republican, the retiring Saxby Chambliss of Georgia, was a bit more equivocal but gave a strong indication he was eager to cut a deal based on the ideas from the House and the White House.

The plan’s fight over authority crowds it out

John Grant, Minority Counsel for the Senate Committee on Homeland Security and Governmental Affairs, 8/13/2010, Will There Be Cybersecurity Legislation?, jnslp.com/2010/08/13/will-there-be-cybersecurity-legislation/

In the course of just a few decades, information technology has become an essential component of American life, playing a critical role in nearly every sector of the economy. Consequently, government policy affecting information technology currently emanates from multiple agencies under multiple authorities – often with little or no coordination. The White House’s Cyberspace Policy Review (the Review) wisely recognized that the first priority in improving cybersecurity is to establish a single point of leadership within the federal government and called for the support of Congress in pursuit of this agenda. Congressional involvement in some form is inevitable, but there is considerable uncertainty as to what Congress needs to do and whether it is capable of taking action once it decides to do so. With an agenda already strained to near the breaking point by legislation to address health care reform, climate change, energy, and financial regulatory reform – as well as the annual appropriations bills – the capacity of Congress to act will depend, in some part, on the necessity of action. For the last eight years, homeland security has dominated the congressional agenda. With the memory of the terrorist attacks of September 11 becoming ever more distant, there may be little appetite for taking on yet another major piece of complex and costly homeland security legislation.

That’s key to NSA authority—Congress would easily reject all NSA surveillance

Brendan Sasso, National Journal, 3/25/14, Why Obama and His NSA Defenders Changed Their Minds, www.nationaljournal.com/tech/why-obama-and-his-nsa-defenders-changed-their-minds-20140325

It was only months ago that President Obama, with bipartisan backing from the heads of Congress's Intelligence committees, was insisting that the National Security Agency's mass surveillance program was key to keeping Americans safe from the next major terrorist attack. They were also dismissing privacy concerns, saying the program was perfectly legal and insisting the necessary safeguards were already in place. But now, Obama's full-speed ahead has turned into a hasty retreat: The president and the NSA's top supporters in Congress are all pushing proposals to end the NSA's bulk collection of phone records. And civil-liberties groups—awash in their newly won clout—are declaring victory. The question is no longer whether to change the program, but how dramatically to overhaul it. So what changed? It's not that Obama and his Hill allies suddenly saw the error of their ways and became born-again privacy advocates. Instead, with a critical section of the Patriot Act set to expire next year, they realized they had no choice but to negotiate. If Congress fails to reauthorize that provision—Section 215—by June 1, 2015, then the NSA's collection of U.S. records would have to end entirely. And the growing outrage prompted by the Snowden leaks means that the NSA's supporters would almost certainly lose an up-or-down vote on the program. Rep. Adam Schiff, a Democratic member of the House Intelligence Committee, said that looming sunset is what forced lawmakers to the bargaining table. "I think what has changed is the growing realization that the votes are simply not there for reauthorization," he said in an interview. "I think that more than anything else, that is galvanizing us into action."

Obama and the House Intelligence Committee leaders believe their proposals are now the NSA's best bet to retain some power to mine U.S. phone records for possible terror plots. Senate Intelligence Committee Chairwoman Dianne Feinstein, another leading NSA defender, also indicated she is on board with the changes, saying the president's proposal is a "worthy effort." And though the Hill's NSA allies are now proposing reforms to the agency, they don't seem particularly excited about it. At a Capitol Hill press conference Tuesday, Rep. Mike Rogers, the Republican chairman of the House Intelligence Committee, and Rep. Dutch Ruppersberger, the panel's top Democrat, often sounded like they were arguing against their own bill that they were unveiling. "I passionately believe this program has saved American lives," Rogers said. Ruppersberger said if the program had been in place in 2001, it may have prevented the Sept. 11 attacks. But the lawmakers acknowledged there is broad "discomfort" with the program as it is currently structured. "We need to do something about bulk collection because of the perception of our constituents," Ruppersberger admitted. Under their legislation, the vast database of phone records would stay in the hands of the phone companies. The NSA could force the phone companies to turn over particular records, and the Foreign Intelligence Surveillance Court would review the NSA orders after the fact. But Rogers rejected a reporter's suggestion that the NSA should have never had control of the massive database of phone records in the first place. "There was no abuse, no illegality, no unconstitutionality," he said. For all their hesitance, however, Rogers and company much prefer their version to a competing proposal to change the way the government gathers information. That would be the USA Freedom Act, a proposal from Senate Judiciary Committee Chairman Patrick Leahy and Rep. Jim Sensenbrenner that Rogers and his ilk fear would go too far in hamstringing the NSA. The USA Freedom Act would require the NSA to meet a tougher standard for the data searches and would limit other NSA programs, such as Internet surveillance of people overseas. Additionally, President Obama is expected to unveil his own plan to reform the controversial phone data collection program this week. According to The New York Times, Obama's proposal would also keep the database in the hands of the phone companies. His plan would have tougher judicial oversight than the House bill by requiring pre-approval from the court for every targeted phone number, the newspaper reported. But though the momentum has shifted and officials seem to be coalescing around a framework for overhauling the NSA program, the question is far from settled. Leahy and Sensenbrenner are not backing off from their USA Freedom Act, and outside groups will continue their policy push as well.

NSA surveillance authority key to prevent catastrophic cyber-attacks—reforms key to overall NSA role in cyber

Jack Goldsmith, Henry L. Shattuck Professor at Harvard Law School, 10/10/13, We Need an Invasive NSA, www.newrepublic.com/article/115002/invasive-nsa-will-protect-us-cyber-attacks

Ever since stories about the National Security Agency’s (NSA) electronic intelligence-gathering capabilities began tumbling out last June, The New York Times has published more than a dozen editorials excoriating the “national surveillance state.” It wants the NSA to end the “mass warehousing of everyone’s data” and the use of “back doors” to break encrypted communications. A major element of the Times’ critique is that the NSA’s domestic sweeps are not justified by the terrorist threat they aim to prevent.

At the end of August, in the midst of the Times’ assault on the NSA, the newspaper suffered what it described as a “malicious external attack” on its domain name registrar at the hands of the Syrian Electronic Army, a group of hackers who support Syrian President Bashar Al Assad. The paper’s website was down for several hours and, for some people, much longer. “In terms of the sophistication of the attack, this is a big deal,” said Marc Frons, the Times’ chief information officer. Ten months earlier, hackers stole the corporate passwords for every employee at the Times, accessed the computers of 53 employees, and breached the e-mail accounts of two reporters who cover China. “We brought in the FBI, and the FBI said this had all the hallmarks of hacking by the Chinese military,” Frons said at the time. He also acknowledged that the hackers were in the Times system on election night in 2012 and could have “wreaked havoc” on its coverage if they wanted.

Such cyber-intrusions threaten corporate America and the U.S. government every day. “Relentless assaults on America’s computer networks by China and other foreign governments, hackers and criminals have created an urgent need for safeguards to protect these vital systems,” the Times editorial page noted last year while supporting legislation encouraging the private sector to share cybersecurity information with the government. It cited General Keith Alexander, the director of the NSA, who had noted a 17-fold increase in cyber-intrusions on critical infrastructure from 2009 to 2011 and who described the losses in the United States from cyber-theft as “the greatest transfer of wealth in history.” If a “catastrophic cyber-attack occurs,” the Timesconcluded, “Americans will be justified in asking why their lawmakers ... failed to protect them.”

The Times editorial board is quite right about the seriousness of the cyber- threat and the federal government’s responsibility to redress it. What it does not appear to realize is the connection between the domestic NSA surveillance it detests and the governmental assistance with cybersecurity it cherishes. To keep our computer and telecommunication networks secure, the government will eventually need to monitor and collect intelligence on those networks using techniques similar to ones the Timesand many others find reprehensible when done for counterterrorism ends.

The fate of domestic surveillance is today being fought around the topic of whether it is needed to stop Al Qaeda from blowing things up. But the fight tomorrow, and the more important fight, will be about whether it is necessary to protect our ways of life embedded in computer networks.

Anyone anywhere with a connection to the Internet can engage in cyber-operations within the United States. Most truly harmful cyber-operations, however, require group effort and significant skill. The attacking group or nation must have clever hackers, significant computing power, and the sophisticated software—known as “malware”—that enables the monitoring, exfiltration, or destruction of information inside a computer. The supply of all of these resources has been growing fast for many years—in governmental labs devoted to developing these tools and on sprawling black markets on the Internet.

Telecommunication networks are the channels through which malware typically travels, often anonymized or encrypted, and buried in the billions of communications that traverse the globe each day. The targets are the communications networks themselves as well as the computers they connect—things like the Times’ servers, the computer systems that monitor nuclear plants, classified documents on computers in the Pentagon, the nasdaq exchange, your local bank, and your social-network providers.

To keep these computers and networks secure, the government needs powerful intelligence capabilities abroad so that it can learn about planned cyber-intrusions. It also needs to raise defenses at home. An important first step is to correct the market failures that plague cybersecurity. Through law or regulation, the government must improve incentives for individuals to use security software, for private firms to harden their defenses and share information with one another, and for Internet service providers to crack down on the botnets—networks of compromised zombie computers—that underlie many cyber-attacks. More, too, must be done to prevent insider threats like Edward Snowden’s, and to control the stealth introduction of vulnerabilities during the manufacture of computer components—vulnerabilities that can later be used as windows for cyber-attacks.

And yet that’s still not enough. The U.S. government can fully monitor air, space, and sea for potential attacks from abroad. But it has limited access to the channels of cyber-attack and cyber-theft, because they are owned by private telecommunication firms, and because Congress strictly limits government access to private communications. “I can’t defend the country until I’m into all the networks,” General Alexander reportedly told senior government officials a few months ago.

For Alexander, being in the network means having government computers scan the content and metadata of Internet communications in the United States and store some of these communications for extended periods. Such access, he thinks, will give the government a fighting chance to find the needle of known malware in the haystack of communications so that it can block or degrade the attack or exploitation. It will also allow it to discern patterns of malicious activity in the swarm of communications, even when it doesn’t possess the malware’s signature. And it will better enable the government to trace back an attack’s trajectory so that it can discover the identity and geographical origin of the threat.

Alexander’s domestic cybersecurity plans look like pumped-up versions of the NSA’s counterterrorism-related homeland surveillance that has sparked so much controversy in recent months. That is why so many people in Washington think that Alexander’s vision has “virtually no chance of moving forward,” as the Times recently reported. “Whatever trust was there is now gone,” a senior intelligence official told Times.

There are two reasons to think that these predictions are wrong and that the government, with extensive assistance from the NSA, will one day intimately monitor private networks.

The first is that the cybersecurity threat is more pervasive and severe than the terrorism threat and is somewhat easier to see. If the Times’ website goes down a few more times and for longer periods, and if the next penetration of its computer systems causes large intellectual property losses or a compromise in its reporting, even the editorial page would rethink the proper balance of privacy and security. The point generalizes: As cyber-theft and cyber-attacks continue to spread (and they will), and especially when they result in a catastrophic disaster (like a banking compromise that destroys market confidence, or a successful attack on an electrical grid), the public will demand government action to remedy the problem and will adjust its tolerance for intrusive government measures.

At that point, the nation’s willingness to adopt some version of Alexander’s vision will depend on the possibility of credible restraints on the NSA’s activities and credible ways for the public to monitor, debate, and approve what the NSA is doing over time.

Which leads to the second reason why skeptics about enhanced government involvement in the network might be wrong. The public mistrusts the NSA not just because of what it does, but also because of its extraordinary secrecy. To obtain the credibility it needs to secure permission from the American people to protect our networks, the NSA and the intelligence community must fundamentally recalibrate their attitude toward disclosure and scrutiny. There are signs that this is happening—and that, despite the undoubted damage he inflicted on our national security in other respects, we have Edward Snowden to thank.

Nuclear war

Andres and Breetz 11Richard Andres, Professor of National Security Strategy at the National War College and a Senior Fellow and Energy and Environmental Security and Policy Chair in the Center for Strategic Research, Institute for National Strategic Studies, at the National Defense University, and Hanna Breetz, doctoral candidate in the Department of Political Science at The Massachusetts Institute of Technology, Small Nuclear Reactorsfor Military Installations:Capabilities, Costs, andTechnological Implications, [www.ndu.edu/press/lib/pdf/StrForum/SF-262.pdf](http://www.ndu.edu/press/lib/pdf/StrForum/SF-262.pdf)

More recently, awareness has been growing that the grid is also vulnerable to purposive attacks. A report sponsored by the Department of Homeland Security suggests that a coordinated cyberattack on the grid could result in a third of the country losing power for a period of weeks or months.9 Cyberattacks on critical infrastructure are not well understood. It is not clear, for instance, whether existing terrorist groups might be able to develop the capability to conduct this type of attack. It is likely, however, that some nation-states either have or are working on developing the ability to take down the U.S. grid. In the event of a war with one of these states, it is possible, if not likely, that parts of the civilian grid would cease to function, taking with them military bases located in affected regions. Government and private organizations are currently working to secure the grid against attacks; however, it is not clear that they will be successful. Most military bases currently have backup power that allows them to function for a period of hours or, at most, a few days on their own. If power were not restored after this amount of time, the results could be disastrous. First, military assets taken offline by the crisis would not be available to help with disaster relief. Second, during an extended blackout, global military operations could be seriously compromised; this disruption would be particularly serious if the blackout was induced during major combat operations. During the Cold War, this type of event was far less likely because the United States and Soviet Union shared the common understanding that blinding an opponent with a grid blackout could escalate to nuclear war. America’s current opponents, however, may not share this fear or be deterred by this possibility.

## 4

The 1AC is military futurology, an attempt to secure reality against disorder via force causing apathy–they need to justify their prediction model first.

Matt Carr 10, freelance writer, published in Race & Class, Slouching towards dystopia: the new military futurism, <http://www.societaitalianastoriamilitare.org/libri%20in%20regalo/2010%20CARR%20New-Military-Futurism.pdf>

This determination to shape, control and ‘dominate’ the turbulent and conflict prone twenty-first century in the foreseeable (and unforeseeable) future is a key component of the new military futurism. On the one hand, **military futurism is a by-product of the megalomaniac military doctrine of ‘full spectrum dominance’**. At the same time, its predictions about the future express very real fears amongst the US ruling elite that the United States is inextricably connected to a world that may be slipping out of its control. Perhaps not surprisingly, therefore, **the new military futurists** are often considerably more pessimistic than their predecessors and tend to **paint a very bleak future of an unsafe and unstable world that demands a constant military presence to hold it together**. From Yevgeny Zemyatin’s We to Brave New World and Orwell’s Nineteen Eighty-Four, twentieth-century writers have used dystopian visions of the future as a warning or as a satirical commentary on the often lethal consequences of twentieth-century utopianism. The dystopias of the new military futurists have a very different purpose. The US military often tends to perceive itself as the last bastion of civilisation against encroaching chaos and disorder. **The worse the future is perceived to be, the more these dark visions of chaos and disorder serve to justify limitless military ‘interventions’, technowarfare, techno-surveillance and weapons procurement programmes**, and the predictions of the military futurists are often very grim indeed.

## 5

Restrictions are limitations imposed on action–not reporting and monitoring

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.

Vote negative—

Limits–hundreds of policies raise the costs of Presidential authority – they allow all of them

Ground–the key question is overarching authority in future situations – not programmatic changes

Precision–it’s the most important distinction

Solum, professor of law at UCLA, 2003

(Lawrence, “Legal Theory Lexicon 001: Ex Ante & Ex Post,” <http://lsolum.typepad.com/legal_theory_lexicon/2003/09/legal_theory_le_2.html>)

**If I had to select only one theoretical tool for a** first-year law **student to master**, **it would be the ex post/ex ante distinction**. (Of course, this is cheating, because there is a lot packed into the distinction.) The terminology comes from law and economics, and here is the basic idea:

The ex post perspective is backward looking. From the ex post point of view, we ask questions like: Who acted badly and who acted well? Whose rights were violated? Roughly speaking, we associated the ex post perspective with fairness and rights. The ex post perspective in legal theory is also loosely connected with deontological approaches to moral theory. In general jurisprudence, we might associate the ex post perspective with legal formalism.

The ex ante perspective is forward looking. From the ex ante point of view, we ask questions like: **What affect will this rule have on the future?** Will decision of a case in this way produce good or bad consequences? Again, roughly speaking we associate the ex ante perspective with policy and welfare. The ex ante perspective in legal theory is loosely connected with consequentialist (or utilitarian or welfarist) approaches to moral theory. In general jurisprudence, we might associate the ex ante perspective with legal instrumentalism (or legal realism).

New affs are independently a voter

They destroy in depth debate and research which are key to portable skills

Preround disclosure solves any of their offense

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

## 6

The United States Federal Government should publicly establish the policy that it will cease the use of credibility as a national interest for justification of Presidential War Powers Authority to introduce armed forces into hostilities unless Saudi Arabia transitions to a constitutional monarchy.

#### Pressuring Saudi Arabia to reform key to US credibility---double standards make it impossible to promote democracy globally

Gerald, 11

(9/28, “International Affairs Columnist at Gundpowder & Lead, “Time to change U.S. policy toward Saudi Arabia,” http://globalpublicsquare.blogs.cnn.com/2011/09/28/time-to-change-u-s-policy-toward-saudi-arabia/)

American foreign policy is often torn between shared values and strategic interests. Nowhere is the divide more pronounced than in U.S. dealings with the Kingdom of Saudi Arabia. Although Saudi Arabia has an egregious record on human rights, a major arms deal is being finalized between the country and the U.S. Indeed, Saudi Arabia appears positioned to remain a stable center of U.S. policy in the region, now more than ever. Saudi Arabia's interactions with its restive neighbors have been reliably counterrevolutionary. Saudi Arabia has historically preferred Yemen divided and weak. Although divisions within the regime on the best approach to Yemen are clear, Saudi Arabia has shown a consistent willingness to intervene in Yemen's affairs. North of the Kingdom in Jordan, where stalled political reforms and a struggling economy have led to regular protests, the Saudi regime has offered economically advantageous membership in the Gulf Cooperation Council and at least $400 million in grants to support the country's economy and reduce its budget deficit. Additionally, Kingdom forces headed up an intervention in Bahrain in March, on behalf of their allies, the ruling al-Khalifa regime. Saudi troops helped the Sunni leaders crack down on the Shia protests and may have assisted in the destruction of a number of Shiite mosques in the country. This assistance not only helped restore stability to the closely neighboring island, but also may have served as a message to the Kingdom's own Shia population, which has long been the subject of severe discrimination by the Wahhabi sect that dominates the Saudi religious establishment. In recent years, there has been a renewal of small Shia protests in Saudi Arabia, but public protest remains illegal. The government aggressively clamps down on protest movements, and those arrested often disappear into the prison system. The only man to appear for a planned day of protests on March 11 in Riyadh was arrested; he remains imprisoned with no access to legal representation. **Saudi Arabia's record on human rights is dismal** . The plight of the country's foreign domestic workers is so bad that Indonesia this year barred its citizens from working there after a particularly serious incident. Laborers not only work long hours for little pay under draconian sponsorship laws, but abuse is common, redress virtually unknown and a worker is more likely to be convicted for standing up for herself than to see her employer convicted for abusing her. Saudi citizens cannot rely on the rule of law either, as the legal system is still built largely on un-codified religious law and royal decree. Even codification efforts seem aimed toward formalizing injustice. Despite some recent changes, women in Saudi Arabia have diminished legal standing; a woman's voice carries half the weight of a man's in court proceedings and women require the supervision of a male family member for many activities. They are also not permitted to drive, which is the only rights issue for which U.S. politicians have applied any public pressure on the Saudi regime. Nevertheless, last fall, the U.S. came to an agreement with Saudi Arabia on a $60 billion arms deal, the biggest such deal in U.S. history. It includes a large package of new fighter jets, upgrades to older jets and a variety of attack helicopters, as well as equipment, weapons, training and support for all systems. It hasn't been finalized, but Congress raised no objections when the deal was reviewed last fall. In fact, in July there were reports that the deal was being expanded to include an additional $30 billion to facilitate upgrades to the Saudi Navy. An agreement of this scope and magnitude shows a clear commitment by the United States to its future relationship with the Kingdom. Upgrading their fleet will allow them to take a stronger posture against Iran and those attack helicopters will be useful for limiting spillover from the chaos in neighboring Yemen. While our Secretary of State and various members of Congress are lobbying the Saudi regime to allow women the relatively minor freedom of driving, others in our government are negotiating billions of dollars in arms sales to the Kingdom and watching quietly as Saudi troops clamp down on their neighbors' democratic reform movements. Our actions speak for themselves. With Egypt in a turbulent transition and unrest sending tremors through the whole region, the U.S. is banking on Saudi Arabia to help contain the chaos in Yemen, keep Bahrain a quiet home for the busy Fifth Fleet of the U.S. Navy, prevent Iran from dominating the region, and of course, keep the oil flowing. There is also a bonus effect of filling any potential void in military spending to our massive defense industry that might be left by anticipated cuts to domestic defense spending. We have $60-90 billion in military hardware riding on Saudi Arabia - never mind a substantive discussion of human rights or democratic reform. This is problematic in several ways. It has become a **tired refrain in international policy circles**: Why do we have a responsibility to protect the civilians of Libya, but not the people of Saudi Arabia? Why do we oppose the extremist ideas of Iran or the Taliban, but **remain silent while Saudi** Arabia **uses its wealth to spread Wahhabist ideology around the world? We have a clear credibility gap**. We can only talk of democracy and universal rights while materially supporting their biggest opponents for so long before our **words are rendered meaningless**. Our stance on these issues should be **clear and consistent**, even if our approach to promoting that stance must be different for different states. Otherwise, on any occasions when we want to spark a discussion or spur action on these issues, **our opinion will be given significantly less weight**. The strategic interests that drive our relationship with Saudi Arabia now may seem more important in the short-term, but in the long-term, what has the greatest potential to serve our interests: the arms we can sell to Saudi Arabia or the example of free expression and assembly we can set? What is a bigger long-term threat: Iran, with its devastated economy and ever-waning legitimacy, or the extremist ideology Saudi Arabia spreads through the mosques and schools it builds and funds all over the world? For many years, the U.S. turned a blind eye to the abuses of the Mubarak regime in Egypt in a trade-off for a perceived security advantage only to be left stumbling for a reaction as the Egyptian people took it upon themselves to oust him. Saudi Arabia is still a long way from this stage, and American support will make that distance longer, but eventually change will come, in one way or another. Maybe it will be a peaceful democratic transition; maybe it will be a coup from within the dynasty or from the Wahhabi religious establishment. Do we want to have an unblemished record of support for a repressive regime when that time comes? Or would **we rather have the credibility of a nation that encouraged reform and expanded liberty and that might be in a position to influence or lend assistance to a genuinely democratic movement?**

#### The counterplan is key to pressure---no way to restore US credibility unless we back up demands with real threats

Fitzgerald, 13

(Columnist-The Guardian, “Why won't the west call out Saudi Arabia for persecution of democratic activists?” 12/29, http://www.theguardian.com/commentisfree/2013/dec/29/saudi-arabia-us-human-rights-persecution-activists)

It is also of little surprise that American media hasn't pressed Obama administration officials on this latest persecution, and the clear signal the sentence sends that those "strong representations" fell on deliberately deaf ears. After all, there is much to be distracted by in the region: the Iranian nuclear deal, the continuing bloody war in Syria, and the escalating conflict in Egypt. All of these strategically concern Saudi Arabia and its level of influence – briefings at State in the days following Saeed's sentencing touched on issues such as Saudi-US cooperation in the Middle East peace process, and the Geneva II conference over Syria, with no mention of the quashing of nascent civil society. But what is particularly galling about the lack of public pressure on the Saudi government for their continued crackdown on Acpra and other democratic **activists is that it is indicative of a broader flight from the lofty pro-democracy rhetoric** of the Obama White House **at the beginning of the Arab Spring.** With Syria, the Obama administration seemed interested principally in retributive strikes against the Assad regime for using chemical weapons simply because it crossed an imaginary "red line" and because it violated an "international norm", regardless of what the effect would be on the revolution's non-extremist anti-Assad forces and movements – likely the only (yet swiftly fading) hope for democratization. The United States government chose not to label the overthrow of Mohamed Morsi as a military coup in Egypt – and then only reduced military aid (which is required by law should a military government overthrow a democratically elected leader) in the face of massive and violent repression where, quite literally, "the whole world was watching". Secretary of State John Kerry then said this aid reduction was not a form of "punishment" in his November visit to Cairo. Now the state department had to issue a statement on 23 December, condemning the recent crackdown by Egypt's military government on peaceful demonstrators and activists – a sign that once again, trust in authoritarian regimes to be the stewards of inclusive democratic transitions will result in failure. Of course, there are strategic rationalizations for supporting the military government of Sisi in Egypt, or Saudi Arabia, despite human rights abuses. The US is set to sell $10.8bn in military weapons, including standoff land attack missiles and anti-ship harpoon missiles capable of being fired from US-made F-15s and F-16s to Saudi and the UAE – the latter just sentenced an American citizen to a year in prison for making a satirical video about Emirati youth. These countries are important players, and must interact with the many moving parts of US foreign policy. But this was also the argument behind support for the apartheid government of South Africa – where strategic interests took precedence over addressing clear injustice. It's clear that half-hearted condemnations have little effect on human rights abuses. The governments of countries like Saudi Arabia, the UAE and Egypt can't afford to truly forswear US support (even if they make public displays of frustration). The US and other allies **should demand an end to the suppression of democratic activism and civil society – and back it up with real threats of withdrawal of support.** Supporters of democracy **should not be afraid to name, shame, and directly confront tyranny** wherever it is seen. Whether it is in Russia or China, or perpetrated under the guise of "national security" by the United States or the Kingdom of Saudi Arabia. Those that deem oppression a strategic necessity or its elimination an impossibility almost always end up on the "wrong side of history".

#### Mid East credibility solves nuclear war

Herbert I. **London 10**, President Emeritus of Hudson Institute, “The Coming Crisis in the Middle East”, June 23, <http://www.hudson.org/index.cfm?fuseaction=publication_details&id=7101&pubType=HI_Opeds>

The gathering storm in the Middle East is gaining momentum. War clouds are on the horizon and like conditions prior to World War I all it takes for explosive action to commence is a trigger. Turkey’s provocative flotilla - often described in Orwellian terms as a humanitarian mission - has set in motion a flurry of diplomatic activity, but if the Iranians send escort vessels for the next round of Turkish ships, it could present a casus belli. It is also instructive that Syria is playing a dangerous game with both missile deployment and rearming Hezbollah. According to most public accounts Hezbollah is sitting on 40,000 long, medium and short range missiles and Syrian territory has served as a conduit for military material from Iran since the end of the 2006 Lebanon War. Should Syria move its own scuds to Lebanon or deploy its troops as reinforcement for Hezbollah, a wider regional war with Israel could not be contained. In the backdrop is an Iran with sufficient fissionable material to produce a couple of nuclear weapons. It will take some time to weaponize missiles, but the road to that goal is synchronized in green lights since neither diplomacy nor diluted sanctions can convince Iran to change course. Iran is poised to be the hegemon in the Middle East. It is increasingly considered the “strong horse” as American forces incrementally retreat from the region. Even Iraq, ironically, may depend on Iranian ties in order to maintain internal stability. From Qatar to Afghanistan all political eyes are on Iran. For Sunni nations like Egypt and Saudi Arabia regional strategic vision is a combination of deal making to offset the Iranian Shia advantage and attempting to buy or develop nuclear weapons as a counter weight to Iranian ambition. However, both of these governments are in a precarious state. Should either fall, all bets are off in the Middle East neighborhood. It has long been said that the Sunni “tent” must stand on two legs, if one, falls, the tent collapses. Should that tent collapse and should Iran take advantage of that calamity, it could incite a Sunni-Shia war. Or feeling its oats and no longer dissuaded by an escalation scenario with nuclear weapons in tow, war against Israel is a distinct possibility. However, implausible it may seem at the moment, the possible annihilation of Israel and the prospect of a second holocaust could lead to a nuclear exchange. The only wild card that can change this slide into warfare is an active United States’ policy. Yet curiously, the U.S. is engaged in both an emotional and physical retreat from the region. Despite rhetoric which suggests an Iran with nuclear weapons is intolerable, it has done nothing to forestall that eventual outcome. Despite the investment in blood and treasure to allow a stable government to emerge in Iraq, the anticipated withdrawal of U.S. forces has prompted President Maliki to travel to Tehran on a regular basis. And despite historic links to Israel that gave the U.S. leverage in the region and a democratic ally, the Obama administration treats Israel as a national security albatross that must be disposed of as soon as possible. As a consequence, the U.S. is perceived in the region as the “weak horse,” the one that is dangerous to ride. In every Middle East capital the words “unreliable and United States” are linked. Those seeking a moderate course of action are now in a distinct minority. A political vacuum is emerging, one that is not sustainable and one the Iranian leadership looks to with imperial exhilaration. It is no longer a question of whether war will occur, but rather when it will occur and where it will break out. There are many triggers to ignite the explosion, but not many scenarios for containment. Could it be a regional war in which Egypt and Saudi Arabia watch from the sidelines, but secretly wish for Israeli victory? Or is this a war in which there aren’t victors, only devastation? Moreover, should war break out, what does the U.S. do? This is a description far more dire than any in the last century and, even if some believe my view is overly pessimistic, Arab and Jew, Persian and Egyptian, Muslim and Maronite tend to believe in its veracity. That is a truly bad sign.

## 7

#### War powers authority is enumerated in prior statutes---restrictions need to be on a specified source of authority

Curtis Bradley 10, Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School, Curtis, “CLEAR STATEMENT RULES AND EXECUTIVE WAR POWERS” http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty\_scholarship

The scope of the President’s independent war powers is **notoriously unclear**, and courts are understandably reluctant to issue constitutional rulings that might deprive the federal government as a whole of the flexibility needed to respond to crises. As a result, courts often look for signs that Congress has either supported or opposed the President’s actions and rest their decisions on statutory grounds. This is essentially the approach outlined by Justice Jackson in his concurrence in Youngstown.1 For the most part, the Supreme Court has also followed this approach in deciding executive power issues relating to the war on terror. In Hamdi v. Rumsfeld, for example, Justice O’Connor based her plurality decision, which allowed for military detention of a U.S. citizen captured in Afghanistan, on Congress’s September 18, 2001, Authorization for Use of Military Force (AUMF).2 Similarly, in Hamdan v. Rumsfeld, the Court grounded its disallowance of the Bush Administration’s military commission system on what it found to be congressionally imposed restrictions.3 The Court’s decision in Boumediene v. Bush4 might seem an aberration in this regard, but it is not. Although the Court in Boumediene did rely on the Constitution in holding that the detainees at Guantanamo have a right to seek habeas corpus re‐ view in U.S. courts, it did not impose any specific restrictions on the executive’s detention, treatment, or trial of the detainees.5 In other words, Boumediene was more about preserving a role for the courts than about prohibiting the executive from exercising statutorily conferred authority.

#### Vote neg---

#### Limits---allowing restrictions on potential authorities blows the lid off the topic---makes adequate preparation and clash impossible --- also kills precision

## 8

Legal restraints motivated by conflict narratives naturalize exceptional violence—the impact is endless intervention and WMD warfare

Morrissey ‘11

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.**

Vote neg to debase the aff’s reliance securitized law in favor of democratic restraints on the President

Stephanie A. Levin 92, law prof at Hampshire College, Grassroots Voices: Local Action and National Military Policy, 40 Buff. L. Rev. 372

In this sense, what is important about federalism is not that it locates power "here" or "there" — not that some things are assigned irretrievably to the federal government or others to the states — but that it creates a tension about power, so that there are competing sources of authority rather than one unitary sovereign. Hannah Arendt has written that "perhaps the greatest American innovation in politics as such was the consistent abolition of sovereignty within the body politic of the republic, the insight that in the realm of human affairs sovereignty and tyranny are the same."194 Akhil Amar has expressed what is actually the same basic insight in a very different formulation, writing that the American innovation was to place sovereignty "in the People themselves. "I9S Whether one views unitary sovereignty as abolished or relocated to the people, the key point is that it is no longer considered to be in any unitary government. Governmental institutions are divided and kept in tension. At the federal level, this is the familiar doctrine of separation of powers. The same principle animates federalism. The tension is valued because it creates space for the expression of suppressed viewpoints and helps to prevent any one orthodoxy from achieving complete hegemony. Amar sums up the contribution that this governmental innovation makes to the liberty of the people by writing: "As with separation of powers, federalism enabled the American People to conquer government power by dividing it. Each government agency, state and national, would have incentives to win the principal's affections by monitoring and challenging the other's misdeeds."196 This is a compelling insight, but the way Professor Amar has framed it presents two difficulties for present purposes. First, by naming only the "state" and "national" governments, it ignores the field of local government action, a field particularly accessible to the direct involvement of the very citizens who constitute Amar's sovereign "People."197 Second, by making the subject of the verb the "government agency," the sentence makes it sound as if it were the "government agency" which acts, rather than recognizing that it is people who act though the agencies of government. Since the focus here is on federalism as a means of fostering civic participation, both of these qualifications are crucial. While state government will sometimes be an excellent locus for citizen action, often local government will provide the best forum for ordinary citizens to find their voices in civic conversation. And because the value of federalism for our purposes is in the enhanced opportunities it provides for citizen participation in policy development, the focus must be not on government institutions acting, but on people acting through them. In summary, three key attributes of participatory federalism must be highlighted. The first is that what is most important is not where government power is assigned — to the federal government, the states, or the localities — but the very fact that there are shared and overlapping powers. This dispersion of power means that the citizen is better protected from the dangers that are inherent in being subject to any one unitary sovereign.198 A second key attribute is that the value of this federalism lies not in the empowerment of government, but in the empowerment of people. Its animating purpose is not to add to or detract from the powers of any particular level of government, but to provide the most fruitful arrangements for enhancing the possibility of genuine citizen control over government. Third, the only meaningful measure of the success or failure of this type of federalism is the extent to which it contributes to increased opportunities for citizens to have a voice in government. This must be not at the level of deceptive abstraction — "the People speak" — but at the very concrete level of actual people with actual voices. The goal is for more people to be able to speak up in settings more empowering than their living rooms — and certainly state and local governments, while not the only possible settings, provide such an opportunity. In conclusion, these general principles of participatory federalism must be linked to the specific case of federalism in connection with military policy. The constitutional arrangements concerning military power which were described in Section II fit with these three attributes of participatory federalism quite well. The first attribute calls for dispersing power by sharing it. As has already been suggested, the military arrangements in the Constitution were designed to achieve exactly this sort of liberating tension between the national government's military powers and the decentralized state and locally-controlled institutions by which these powers were to be carried out. The second attribute calls for empowering people rather than governmental institutions. Here, too, the constitutional arrangements seem to fit. The purpose of the grants of power in the relevant constitutional clauses was not to endow any unit of government with the prerogatives of military power for its own sake. The reason for creating these powers was not to strengthen government but to protect the citizenry — to "provide for the common defense." Given this, it seems anomalous for the federal government — or any branch of the American government — to claim a right to control or use military violence as an inherent attribute of sovereignty.'99 The only justification for this power is in whether it contributes to the security of the citizens. Finally, the idea that federalism should serve the purpose of enhancing citizen voice can also be linked to decentralized arrangements for the control of military power. In the eighteenth century, as I have suggested earlier, the mechanism for expressing "voice" was physical: the militiamember showed up at muster, rifle on shoulder, to participate bodily in a "conversation" about military force.200 Today, it can be hoped that our civic conversation can be more verbal. However, we should translate the underlying meaning of the eighteenth century mechanism — a meaning of citizen participation and consent — into a modality more appropriate to contemporary life rather than relinquish it altogether. I would argue that such a translation leads to three central conclusions. The first is theoretical: we must challenge those mental preconceptions which favor totally centralized power in the military policy arena. We must stop seeing control over military power as belonging "naturally" to the federal government and even more narrowly to the executive branch within it. Instead, we must reconceptualize our understanding of the national arrangements to envision a dynamic and uncertain balance among different sources of power, not only among the three branches of the federal government, but between centralized and decentralized institutions of government as well.201 While the role of the federal government is, of course, crucial, the roles of the states and localities are more than interstitial and should not be allowed to atrophy. Only in this dynamic tension does the best protection for the citizenry lie.

## 9

The plan causes circumvention via PMCs—takes out the aff

Kruck ‘14

Andreas, Geschwister Scholl Institute for Political Science, University of Munich, “Theorising the use of private military and security companies: a synthetic perspective,” Journal of International Relations and Development, 2014, 17, (112–141)

In contrast with this functionalist view, the political-instrumentalist model conceives of privatisation as a strategy of governments to reduce **political costs** rather than enhance problem-solving effectiveness and economic costefficiency (Avant 2005: 60; Chesterman and Lehnardt 2007: 252–3; Avant and Sigelman 2010; Carmola 2010: 45–50, 90–91; Deitelhoff 2010: 198–9; Deitelhoff and Geis 2010). The use of PMSCs serves as an instrument for the **reduction of political costs** accruing to governments from warfare in the context of democratic politics. The political-instrumentalist model relies on the **principal-agent literature** on accountability-evasion, responsibility-shirking and blame-shifting as motives for delegation (Hood 2002; Flinders and Buller 2006; Bartling and Fischbacher 2012). According to this strand of principal-agent research, delegation may be a rational strategy for political cost-sensitive actors who seek to **avoid accountability** for (**potentially**) **controversial or unsuccessful policy decisions** and measures. The model also draws analogies from IR scholarship that has conceived of international cooperation through intergovernmental organisations as a ‘new raison d’e´tat’ (Wolf 1999), that is, **a deliberate strategy** that allows governments to enhance their autonomy **from parliamentary and societal actors** as the intergovernmental arena is largely insulated from effective political control. According to the political-instrumentalist model, governments are not mere transmitters of societally dominant interests but follow their own governmental interests and logics. They seek to keep or even expand their policy autonomy from other legislative and judiciary actors, as well as the broader public. From this perspective, the privatisation of security is a genuinely political and instrumentalist strategy of governments in **strong** and **democratic states** (Binder 2007: 307–8) that serves to **avoid politically costly parliamentary, civil society and media scrutiny,** **opposition and control in the area of security policies.** Democratic oversight and control mechanisms are politically costly because they increase transparency and reduce governments’ autonomy. They render decision-making and implementation more time-intense and cumbersome, less calculable and, ultimately, more risky for governmental actors. Moreover, research on the ‘Democratic Peace’ has shown that democratic electorates are casualty-sensitive (Scho¨ rnig 2008); that is, fallen soldiers can undermine electoral support for military operations and even for incumbent governments, which limits governments’ political leeway in matters of security policy. Failed and/or illegal **military interventions** can endanger incumbents’ re-election in democratic systems and may sometimes even force them to resign (Cockayne 2007: 206, 212; Carmola 2010: 45–60; Deitelhoff 2010: 198–9). By shifting security tasks from the public to the private sphere, governmental actors seek to **reduce (further**) the transparency of decision-making in the realm of security policy, **diffuse accountability**, circumvent democratic and legal control mechanisms and thus enhance their political autonomy in decisions concerning the use of military force. **The use of PMSCs thus increases the power of governments vis-a`-vis their parliaments** (Avant 2005: 60; Avant and Sigelman 2010; Deitelhoff and Geis 2010). Highly political security measures are ‘depoliticised’, that is, removed from contested and (at least somewhat) transparent parliamentary, civil society and media debates. **Transferring** the execution of **security functions to PMSCs** may **help governments** to **hide the origins, extent and consequences of unpopular decisions from other state organs** and broader constituencies (Cockayne 2007: 212). Thus, privatisation serves to cover or downplay the roles and responsibilities of governments. In extreme cases, the responsibility for controversial or unpopular policies is shifted to private actors — this may be attractive and succeed reasonably well if the appearance of a distance between the government and PMSCs can be upheld. PMSCs may then allow for covert foreign policy not approved of by the national public (Deitelhoff 2010: 198). Governmental actors profit from the lesser transparency, the weaker oversight and regulation, as well as the lower media profile of PMSCs compared with public armed forces (Chesterman and Lehnardt 2007; Schneiker 2007; Cutler 2010). In the absence of major scandals, PMSCs are still relatively low-key agents who fly under the radar of public scrutiny and are more or less insulated from intense public contestation and control. Their lack of transparency and accountability to parliaments and the broader public suits the governmental strategy of depoliticisation by delegation (Flinders and Buller 2006). Obviously, governments’ desire to reduce political costs through outsourcing would need to vary if it is to account for variation in the use of PMSCs. From a political-instrumentalist perspective, the crucial context variable that conditions governments’ desire to reduce political costs by delegation will be the anticipated political costliness of the decisions and measures that are to be taken, that is, their (un)popularity in the broader public. Thus, we can hypothesise from a political-instrumentalist perspective that **the less popular a military operation among the domestic audience**, **the greater will be the incentives of governmental actors to reduce political costs and the higher their propensity to rely on the security services of PMSCs.** States will first and foremost outsource politically and societally controversial tasks to PMSCs.

Destroys allied interoperability

Isenberg ‘9

David, researcher and leader of the Norwegian Initiative on Small Arms Transfers (NISAT) at the International Peace Research Institute, Oslo (PRIO), and the author of Shadow Force: Private Security Contractors in Iraq (Greenwood, 2009), “Private Military Contractors and U.S. Grand Strategy,” PRIO Report 1/2009

TODAY, THE U.S. GOVERNEMENT’S growing reliance on contractors constitutes an attempt to **circumvent** or evade **public skepticism** **about the U**nited **S**tates’ selfappointed role as global policeman. Viewing PMCs through a market framework focuses attention on questions of efficiency, at the expense of more fundamental considerations about the policy being pursued. The related question of whether force should be used – either by uniformed military personnel or else by private contractors – is often neglected. 69 In this respect, the low visibility and presumed low cost of private contractors appealed to those policy analysts who favor a global U.S. military presence, but fear that such a strategy cannot command public support. Max Boot, senior fellow for national security studies at the Council on Foreign Relations, has long championed the use of contractors on these grounds. Writing in The American Interest Boot explained: In a perfect world, Congress would bring the size of our armed forces into closer alignment with our massive defense commitments. But our legislature, like most democratic legislatures, is loath to spend what’s needed on defense, and it is even more reluctant to conscript its citizens... Just as Victorian parliaments stinted on the size of the British army, forcing reliance on regiments raised in India, so too our Congress will never provide enough uniformed personnel to address every perceived need... Thus, in all likelihood, we will continue to muddle along with a mixture of private and public providers of security services.70 Governments also rely on contractors in order to **shift responsibility and blame** for their actions. A state employing contractor personnel to advance its foreign policies faces **less international responsibility** in terms of attribution than would be the case if it relied on its own armed forces.71 But states bear responsibility for the actions of contractors they employ. They should not be allowed to evade responsibility, especially with respect to contractors functioning as the equivalent of the states’ armed forces. The United States is the world's leading user of private contractors because the U.S. government has assumed the role of guarantor of global stability at a time when the American public is unwilling to provide the resources necessary to support this strategy.72 Washington either has to use private contractors to fill the gap between goals and means or else change its goals, and policymakers have shown little interest in the latter. As the United States relies more heavily upon military contractors to support its role as world hegemon, it reinforces the tendency to **approach global crises in a unilateral**, as opposed to multilateral **manner**, further ensuring that the burdens will be carried disproportionately by U.S. taxpayers, and especially U.S. troops.73 Other states have not kept up with the ongoing qualitative changes in the United States military; their armed forces are not readily deployable **nor** easily **interoperable with American personnel and equipment.** In contrast, military contractors have not only geared themselves to serving the American marketplace, they have been instrumental in bringing about those changes within the U.S. military. The marketplace, in other words, can often more readily satisfy the United States’ operational requirements than can our allies and prospective regional partners. 74 The use of contractors has other deleterious effects, **including the weakening of our system of government.** Deborah Avant, a professor of political science at the University of California at Irvine and the Director of International Studies and the Center for Research on International and Global Studies, identifies three features that are common to democracies – constitutionalism, transparency and public consent, and concludes that the use of private security contractors in Iraq had “impeded constitutionalism and lowered transpar- ency.” She speculates that it had circumvented or impeded “effective public consent.” 75 Because Congress has less information about and control over the use of contractors than the use of troops, the White House and the Pentagon can rely on contractors to evade congressional (and, indirectly, public) opposition. 76 PMC employees usually remain outside the formal chain of command and are not allowed to take part in hostilities because they are regarded as civilians under International Humanitarian Law. However, in most of the military interventions today the distinction between frontline and hinterland blurs, bringing PMCs who are most active in logistics, site and convoy security and weapon maintenance ever closer to theater and to an active participation in hostilities. This not only increases risks that they will become a target of military attacks, it also calls upon the regular forces to extend their protection to these companies. Additionally, coordination is needed to prevent conflicts between the regular forces and the PMCs. The increase of so-called blue-on-white fire in Iraq — accidental attacks between U.S. forces and the contractors — indicates how difficult that is. 77 On a broader level, because the use of PMC receives less attention than the use of regular troops, **this reduces the political cost of using force**. Bluntly put, if someone is contributing to the war effort but is not on active duty in the U.S. military, nobody beyond his or her immediate family cares if they get killed. By contrast, the death of even a single infantryman or marine routinely winds up on the front page of the major papers.

Allied interoperability prevents Hormuz closure and SCS conflict—overcomes Chinese regional A2/AD

Armitage ‘12

Richard, president of Armitage International and a trustee of CSIS. From 2001 to 2005, he served as U.S. deputy secretary of state., Joseph S. Nye, dean emeritus of the Kennedy School of Government at Harvard University and a trustee of CSIS. “The U.S.-Japan Alliance anchoring stability in asia,” CSIS August 2012 report

Japan can more fully exercise defense and military diplomacy through capacity building and bilateral and multilateral measures. A new roles and missions review should expand the scope of Japan’s responsibilities to include the defense of Japan and defense with the United States in regional contingencies. The most immediate challenge is in Japan’s own neighborhood. China’s **assertive claims** to most of the East China Sea and virtually all of the South China Sea and the **dramatic increase** in the operational tempo of the PLA and other maritime services, including repeated circumnavigation of Japan, reveal Beijing’s intention to assert greater strategic influence throughout the “First Island Chain” (Japan-Taiwan-Philippines) or what Beijing considers the “Near Sea.” In response to these kinds of anti-access/area denial (A2AD) challenges, the United States has begun work on new operational concepts such as Air Sea Battle and the Joint Operational Access Concept (JOAC). Japan has begun work on parallel concepts such as “dynamic defense.” While the U.S. Navy and the Japan Maritime Self-Defense Forces (JMSDF) have historically led in bilateral interoperability, the new environment requires **significantly greater jointness and interoperability** across services in both countries and bilaterally between the United States and Japan. This challenge should be at the core of the bilateral RMC dialogue and must be fully integrated and driven forward by senior leadership in the U.S. Departments of Defense and State together with the Japanese Ministries of Defense (MOD) and Foreign Affairs (MOFA). In a time of budgetary constraints, RMC cannot be addressed piecemeal or by lower-level officials. Two additional areas for potential increased alliance defense cooperation are in minesweeping in **the Persian Gulf** and joint surveillance of the South China Sea. The Persian Gulf is a **vital global trade and energy transit hub**. At the first rhetorical sign or indication of Iran’s intention to close the Strait of Hormuz, Japan should unilaterally send minesweepers to the region to counter this internationally illegal move. **Peace and stability in the South China Sea are** yet **another vital allied interest** **with** especially **profound salience for Japan**. With 88 percent of Japan’s supplies, including vital energy resources, transiting through the South China Sea, it is in Japan’s interest to increase surveillance in collaboration with the United States to ensure stability and continued freedom of navigation. The distinction between the “Defense of Japan” and regional security is thin. A sealed-off Strait of Hormuz or a military contingency in the South China Sea will have severe implications for the security and stability of Japan. The once-touted sword and shield analogy oversimplifies current security dynamics and glosses over the fact that Japan requires offensive responsibilities to provide for the defense of the nation. Both allies require **more robust**, shared, and **interoperable** Intelligence, Surveillance, and Reconnaissance (ISR) **capabilities** and operations that extend well beyond Japanese territory. For their part, U.S. Forces in Japan (USFJ) should have specific roles assigned in the defense of Japan. With the goal of operational competency and eventual USFJ-JSDF joint task force capability in mind, the United States should allocate greater responsibility and sense of mission to the USFJ. Amidst looming budget cuts and fiscal austerity in both Washington and Tokyo, **smarter** use of resources is essential to maintain capabilities. A primary manifestation of smarter resource implementation is interoperability. Interoperability is not a code word for buying U.S. equipment. At its core, it **is the fundamental ability to work together**. The U.S. Navy and JMSDF have demonstrated this ability for decades. The U.S. Air Force and Japan Air Self-Defense Force (JASDF) are making progress; but U.S. Army/Marine Corps cooperation with the Japan Ground Self-Defense Force (JGSDF) has been limited due to a contrast in focus. The United States has concentrated its efforts on fighting ground wars in the Middle East, while Japan has conducted peacekeeping and disaster relief operations.

SCS conflict causes extinction

Wittner 11 (Lawrence S. Wittner, Emeritus Professor of History at the State University of New York/Albany, Wittner is the author of eight books, the editor or co-editor of another four, and the author of over 250 published articles and book reviews. From 1984 to 1987, he edited Peace & Change, a journal of peace research., 11/28/2011, "Is a Nuclear War With China Possible?", [www.huntingtonnews.net/14446](http://www.huntingtonnews.net/14446))

While nuclear weapons exist, there remains a danger that they will be used. After all, for centuries national conflicts have led to wars, with nations employing their deadliest weapons. The current deterioration of U.S. relations with China might end up providing us with yet another example of this phenomenon. The gathering tension between the United States and China is clear enough. Disturbed by China’s growing economic and military strength, the U.S. government recently challenged China’s claims in the South China Sea, increased the U.S. military presence in Australia, and deepened U.S. military ties with other nations in the Pacific region. According to Secretary of State Hillary Clinton, the United States was “asserting our own position as a Pacific power.” But need this lead to nuclear war? Not necessarily. And yet, there are signs that it could. After all, both the United States and China possess large numbers of nuclear weapons. The U.S. government threatened to attack China with nuclear weapons during the Korean War and, later, during the conflict over the future of China’s offshore islands, Quemoy and Matsu. In the midst of the latter confrontation, President Dwight Eisenhower declared publicly, and chillingly, that U.S. nuclear weapons would “be used just exactly as you would use a bullet or anything else.” Of course, China didn’t have nuclear weapons then. Now that it does, perhaps the behavior of national leaders will be more temperate. But the loose nuclear threats of U.S. and Soviet government officials during the Cold War, when both nations had vast nuclear arsenals, should convince us that, even as the military ante is raised, nuclear saber-rattling persists. Some pundits argue that nuclear weapons prevent wars between nuclear-armed nations; and, admittedly, there haven’t been very many—at least not yet. But the Kargil War of 1999, between nuclear-armed India and nuclear-armed Pakistan, should convince us that such wars can occur. Indeed, in that case, the conflict almost slipped into a nuclear war. Pakistan’s foreign secretary threatened that, if the war escalated, his country felt free to use “any weapon” in its arsenal. During the conflict, Pakistan did move nuclear weapons toward its border, while India, it is claimed, readied its own nuclear missiles for an attack on Pakistan. At the least, though, don’t nuclear weapons deter a nuclear attack? Do they? Obviously, NATO leaders didn’t feel deterred, for, throughout the Cold War, NATO’s strategy was to respond to a Soviet conventional military attack on Western Europe by launching a Western nuclear attack on the nuclear-armed Soviet Union. Furthermore, if U.S. government officials really believed that nuclear deterrence worked, they would not have resorted to championing “Star Wars” and its modern variant, national missile defense. Why are these vastly expensive—and probably unworkable—military defense systems needed if other nuclear powers are deterred from attacking by U.S. nuclear might? Of course, the bottom line for those Americans convinced that nuclear weapons safeguard them from a Chinese nuclear attack might be that the U.S. nuclear arsenal is far greater than its Chinese counterpart. Today, it is estimated that the U.S. government possesses over five thousand nuclear warheads, while the Chinese government has a total inventory of roughly three hundred. Moreover, only about forty of these Chinese nuclear weapons can reach the United States. Surely the United States would “win” any nuclear war with China. But what would that “victory” entail? A nuclear attack by China would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a “nuclear winter” around the globe—destroying agriculture, creating worldwide famine, and generating chaos and destruction.

## 1nc circumvention

Obama circumvents the plan

Wolfgang 1/16/14

Ben, White House Correspondent for the Washington Times, “Little change expected in U.S. surveillance policy,” http://www.washingtontimes.com/news/2014/jan/16/little-change-expected-in-us-surveillance-policy/

If the skeptics are correct, President Obama is about to **embrace** and endorse many of the controversial national-security tools and tactics introduced by his predecessor, despite railing against those policies while campaigning for the Oval Office in 2008. Expectations for Friday's long-awaited address, in which Mr. Obama will outline changes to U.S. spying, surveillance and data-collection efforts, are exceedingly low among privacy advocates and others. They expect the president, while paying **lip service** to the notion of privacy protections and limited government power, to continue the practices first established by the Bush administration in the aftermath of the Sept. 11, 2001, terrorist attacks. Mr. Obama's shift shouldn't come as a surprise, political analysts say, and can be partly attributed to the fact that **it's simply difficult for a president to ever give up authority,** **especially if that authority is meant to protect American lives.** It also may come from the fact that the president fears being viewed by history as the commander in chief who curtailed intelligence-gathering only to see a terrorist attack occur, said William Howell, a politics professor at the University of Chicago who has written extensively on presidential power. "When you're running for office, you may espouse the benefits of a limited executive, but when you assume office, there are **profound pressures** **to claim** and nurture **and exercise authority** at every turn **and not** to **relinquish** the **powers available to you**," Mr. Howell said. Leading up to and during his 2008 presidential campaign, Mr. Obama made it a point to separate himself from Mr. Bush on the national security front, but there remain many **notable similarities**. Guantanamo Bay still is operational, despite repeated pledges from the president that he'd close the U.S. detentional facility in Cuba and house enemy combatants elsewhere. Mr. Obama has dramatically **increased** the use of drones to target terrorists abroad — a step the administration vehemently defends as being quicker, more effective and far less dangerous to American personnel than sending in ground troops. U.S. surveillance efforts, rather than having been reined in, have in some ways **expanded**. In the process, they have caused Mr. Obama significant foreign policy headaches.

## Cred

No adventurism

Brooks 12 (Stephen, Associate Professor of Government at Dartmouth College, John Ikenberry is the Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, William C. Wohlforth is the Daniel Webster Professor in the Department of Government at Dartmouth College “Don’t Come Home America: The Case Against Retrenchment,” International Security, Vol. 37, No. 3 (Winter 2012/13), pp. 7–51

temptation. For many advocates of retrenchment, the mere possession of peerless, globe-girdling military capabilities leads inexorably to a dangerous expansion of U.S. definitions of national interest that then drag the country into expensive wars. 64 For example, sustaining ramified, long-standing alliances such as NATO leads to mission creep: the search for new roles to keep the alliance alive. Hence, critics allege that NATO’s need to “go out of area or out of business” led to reckless expansion that alienated Russia and then to a heedless broadening of interests to encompass interventions such as those in Bosnia, Kosovo, and Libya. In addition, peerless military power creates the temptation to seek total, non-Clausewitzian solutions to security problems, as allegedly occurred in Iraq and Afghanistan. 65 Only a country in possession of such awesome military power and facing no serious geopolitical rival would fail to be satisfied with partial solutions such as containment and instead embark on wild schemes of democracy building in such unlikely places. In addition, critics contend, the United States’ outsized military creates a sense of obligation to use it if it might do good, even in cases where no U.S. interests are engaged. As Madeleine Albright famously asked Colin Powell, “What’s the point of having this superb military you’re always talking about, if we can’t use it?” Undoubtedly, possessing global military intervention capacity expands opportunities to use force. If it were truly to “come home,” the United States would be tying itself to the mast like Ulysses, rendering itself incapable of succumbing to temptation. Any defense of deep engagement must acknowledge that it increases the opportunity and thus the logical probability of U.S. use of force compared to a grand strategy of true strategic disengagement. Of course, if the alternative to deep engagement is an over-the-horizon intervention stance, then the temptation risk would persist after retrenchment. The main problem with the interest expansion argument, however, is that it essentially boils down to one case: Iraq. Sixty-seven percent of all the casualties and 64 percent of all the budget costs of all the wars the United States has fought since 1990 were caused by that war. Twenty-seven percent of the causalities and 26 percent of the costs were related to Operation Enduring Freedom in Afghanistan. All the other interventions—the 1990–91 Persian Gulf War, the subsequent airstrike campaigns in Iraq, Somalia, Bosnia, Haiti, Kosovo, Libya, and so on—account for 3 percent of the casualties and 10 percent of the costs. 66 Iraq is the outlier not only in terms of its human and material cost, but also in terms of the degree to which the overall burden was shouldered by the United States alone. As Beckley has shown, in the other interventions allies either spent more than the United States, suffered greater relative casualties, or both. In the 1990–91 Persian Gulf War, for example, the United States ranked fourth in overall casualties (measured relative to population size) and fourth in total expenditures (relative to GDP). In Bosnia, European Union (EU) budget outlays and personnel deployments ultimately swamped those of the United States as the Europeans took over postconflict peacebuilding operations. In Kosovo, the United States suffered one combat fatality, the sole loss in the whole operation, and it ranked sixth in relative monetary contribution. In Afghanistan, the United States is the number one financial contributor (it achieved that status only after the 2010 surge), but its relative combat losses rank fifth. 67 In short, the interest expansion argument would look much different without Iraq in the picture. There would be no evidence for the United States shouldering a disproportionate share of the burden, and the overall pattern of intervention would look “unrestrained” only in terms of frequency, not cost, with the debate hinging on whether the surge in Afghanistan was recklessly unrestrained. 68 How emblematic of the deep engagement strategy is the U.S. experience in Iraq? The strategy’s supporters insist that Iraq was a Bush/neoconservative aberration; certainly, there are many supporters of deep engagement who strongly opposed the war, most notably Barack Obama. Against this view, opponents claim that it or something close to it was inevitable given the grand strategy. Regardless, the more important question is whether continuing the current grand strategy condemns the United States to more such wars. The Cold War experience suggests a negative answer. After the United States suffered a major disaster in Indochina (to be sure, dwarfing Iraq in its human toll), it responded by waging the rest of the Cold War using proxies and highly limited interventions. Nothing changed in the basic structure of the international system, and U.S. military power recovered by the 1980s, yet the United States never again undertook a large expeditionary operation until after the Cold War had ended. All indications are that Iraq has generated a similar effect for the post–Cold War era. If there is an Obama doctrine, Dominic Tierney argues, it can be reduced to “No More Iraqs.” 69 Moreover, the president’s thinking is reflected in the Defense Department’s current strategic guidance, which asserts that “U.S. forces will no longer be sized to conduct large-scale, prolonged stability operations.” 70 Those developments in Washington are also part of a wider rejection of the Iraq experience across the American body politic, which political scientist John Mueller dubbed the “Iraq Syndrome.” 71 Retrenchment advocates would need to present much more argumentation and evidence to support their pessimism on this subject.

Congress can’t solve

Nzelibe & Yoo 6 [Jide Nzelibe (Asst. Profesor of Law @ Northwestern) and John Yoo (Emanuel S. Heller Professor of Law @ UC-Berkeley Law); “Rational War and Constitutional Design”; Yale Law Journal, Vol. 115; 2006]

A significant number of scholars have argued that the President remains more politically accountable than other institutions. Indeed, much of the current work on the separation of powers commonly assumes that the President answers to a "national constituency," while Congress usually looks to "parochial interests." n17 Critics of the majoritarian President, on the other hand, emphasize that the Electoral College's winner-take-all system gives the President an incentive to cater to a narrower political constituency than the median legislator. n18 Despite these varying views on the accountability of the political branches, one can reasonably conclude that presidential accountability will become more pronounced in matters of foreign policy and national [\*2520] security. In foreign affairs, the Constitution's Framers indisputably attempted to suppress the parochial interests that had beset the Articles of Confederation. They centralized authority over national security, foreign policy, and international trade in the national government. n19 Over time, control over those issues has migrated to the executive branch, a fact that even critics of the "imperial presidency" recognize. n20 More importantly, Presidents are often identified with the nation's successes or failures in foreign policy, and they will bear the lion's share of the electoral consequences of victory or defeat in war. n21

The benefits of delegating war power to the executive might be outweighed by a variety of agency costs. The President, for example, might wish only to satisfy the majority necessary to elect him, which could constitute as little as twenty-five percent of the population (the fifty percent of the states with fifty percent of the electoral votes). n22 Alternatively, the President might be a lame duck in his second term, or he might have a short time horizon that extends only to the next election. A President might use war as a pretext to expand his powers, which he could misuse for domestic purposes. n23 Finally, a President might seek personal glory in war rather than the national interest.

Arguments in favor of a requirement that Congress first authorize war, however, do not explain how congressional participation would reduce these agency costs. If Congress seeks to represent the median voter, as some theories of legislation suggest, then it is unclear that Congress's constituency is any broader than the President's. The median member of the House of Representatives could represent a constituency that is as little as twenty-five [\*2521] percent of the electorate. n24 The constitutional allocation of Senate seats might bias Congress toward the interests of rural areas. Congress might be just as susceptible as the President to the temptation of using war as a pretext to expand its domestic powers. During the McCarthy era, members of Congress, rather than the executive branch, pressed to reduce civil liberties because of national security concerns. Congress also might have objects in mind that have more to do with national glory than with the real interests of the electorate. The War of 1812 centered more on the congressional dream of adding Canada to the American republic than on national self-defense or presidential ambitions. n25

## Crimea

No military response – not a NATO member and sanctions solve escalation

Pace 3-25 [JULIE PACE (AP White House Correspondent); “Obama expresses concern that Russia will move deeper into Ukraine, warns Putin not to”; 3/25/14; http://www.usnews.com/news/world/articles/2014/03/25/us-allies-seek-to-isolate-russia-moscow-shrugs]

While Putin did not attend the long-planned Nuclear Security Summit, his provocative actions in Ukraine dominated the two days of talks in The Hague. Western nations have used their long-planned meetings here to project a united front in their dispute with the West, banking that diplomatic and political isolation might prevent Putin from launching further incursions into eastern and southern Ukraine.

Russia has amassed thousands of troops on its border near those regions, raising anxieties in Washington, as well as in other former Soviet territories. Obama sought to reassure some of those nations that NATO would come to the defense of any member of the 28-nation alliance.

"When it comes to a potential military response, that **is defined by** NATO membership," he said. "That's what NATO's about."

The West's preferred method for preventing an escalation of the conflict continued to be economic sanctions, both on individuals close to Putin and the Russian economy.

Russia won’t go past Crimea and East Ukraine

Posner 3/27 [[Eric Posner](http://www.slate.com/authors.eric_posner.html) (Professor at UChicago Law, co-author of *The Executive Unbound*); <http://www.slate.com/articles/news_and_politics/view_from_chicago/2014/03/sanctions_against_russia_why_everything_we_are_doing_about_crimea_is_completely.single.html>; “What to Do About Crimea? Nothing.: Why all our responses in Crimea are wrongheaded and doomed to fail.”; 3/27/2014]

A more straightforward reason for sanctioning Russia is to deter it from attacking other countries. But most countries don’t invade others. **Crimea was uniquely vulnerable, with a majority ethnic Russian population that welcomed the invaders; existing Russian military bases; and historical ties to Russia.** Putin grabbed Crimea to **avenge Ukraine’s defenestration of** his puppet, Viktor **Yanukovych**. Russia’s other neighbors are either already compliant or extremely hostile, like Ukraine itself. Rather than occupy hostile territories, powerful countries prefer to exert influence from across the border while letting the foreign population misgovern itself. It’s just too much trouble to invade a country and be forced to govern a restive population, as the United States recently learned, to its sorrow, in Afghanistan and Iraq. **An invasion of Ukraine—at least, beyond a few marginal regions in the east—would offer Russia nothing but a guerilla war on foreign territory.**

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.

No nuclear strike

Graham 7 (Thomas Graham, senior advisor on Russia in the US National Security Council staff 2002-2007, 2007, "Russia in Global Affairs” The Dialectics of Strength and Weakness http://eng.globalaffairs.ru/numbers/20/1129.html)

An astute historian of Russia, Martin Malia, wrote several years ago that “Russia has at different times been demonized or divinized by Western opinion less because of her real role in Europe than because of the fears and frustrations, or hopes and aspirations, generated within European society by its own domestic problems.” Such is the case today. To be sure, mounting Western concerns about Russia are a consequence of Russian policies that appear to undermine Western interests, but they are also a reflection of declining confidence in our own abilities and the efficacy of our own policies. Ironically, this growing fear and distrust of Russia come at a time when Russia is arguably less threatening to the West, and the United States in particular, than it has been at any time since the end of the Second World War. Russia does not champion a totalitarian ideology intent on our destruction, its military poses no threat to sweep across Europe, its economic growth depends on constructive commercial relations with Europe, and its strategic arsenal – while still capable of annihilating the United States – is under more reliable control than it has been in the past fifteen years and the threat of a strategic strike approaches zero probability. Political gridlock in key Western countries, however, precludes the creativity, risk-taking, and subtlety needed to advance our interests on issues over which we are at odds with Russia while laying the basis for more constructive long-term relations with Russia.

# 2nc

## \*\*\*xo

## ov

There’s no possible solvency deficit.

Graham Dodds, Ph.D., Concordia professor of political science, 2013, Take Up Your Pen: Unilateral Presidential Directives in American Politics, p. 243-4

As for the legislature, Congress has at times protested unilateral presidential directives, but **it has not done so consistently or successfully**. 58 Congress could speak out against a particular unilateral presidential directive, it could use its power of the purse to block the implementation of a directive, it could reverse or nullify a directive, and it could even pass legislation to curtail executive unilateralism more generally. Additionally, Congress could pass legislation to clarify the many different types of presidential documents and require their regular publication, thereby possibly preventing executive obfuscation by using memoranda and other directives in lieu of executive orders and proclamations. A Senate report of 1974 noted that “the fundamental ambiguity and arbitrariness in the use of Executive orders remains one of the most troubling problems of public administration yet to be resolved by Congress.” 59 In terms of the practice of presidents using different unilateral tools instead of executive orders, the report stated that “remedial legislation to correct this recent practice of public administration should be a priority for Congress.” 60 Nearly four decades later, Congress has yet to act on this priority. And **it does not appear that Congress will stand up to the president** anytime soon. 61 Consider the following account by the renowned author Joan Didion of a congressional hearing during George W. Bush's first term: when a former longtime member of the House of Representatives, Lee Hamilton, suggested at a hearing of the Senate Governmental Affairs Committee that recommendations of the 9/ 11 Commission could be put in effect by “executive order,” [there was] not only no polarization but virtually no response, no discussion of why someone who had long resisted the expansion of executive power now seemed willing to suggest that a major restructuring of the government proceed on the basis of the president's signature alone. “And usually, given my background, you'd expect me to say it's better to have a statute in back of it,” he said. Was he suggesting a way to shortcut the process on only minor points? Or, since he seemed to be talking about major changes, was he simply trying to guide the Senate to the urgency of the matter? Such questions did not enter the discourse. There was only silence, general acquiescence, as if any lingering memory of a separation of powers had been obliterated. 62 This clearly demonstrates the fact that Congress is simply not interested in reining in unilateral executive policymaking. The more recent examples of Congress's reactions to George W. Bush's controversial directives for detainment and domestic spying underscore the point, as **Congress** initially expressed outrage, then **became silent, and eventually** passed legislation essentially to endorse the president's action. As Senator Sheldon Whitehouse (D-RI) said in late 2007 regarding Bush's order for domestic spying, “When the Congress of the United States is willing to roll over for an unprincipled President, this is where you end up.” 63

## 2nc do cp

There’s no world the CP is the plan

Fisher, Scholar in Residence at The Constitution Project, 2012

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

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

## \*\*\*saudi

## 2NC Impact OV

Mid East war goes nuclear—no defense

Russell, 9

(Senior Lecturer, National Security Affairs, Naval Postgraduate School, 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.

## AT: Perm—Do CP

Severs substantial

Words & Phrases 64

(40 W&P 759)

The words “outward, open, actual, visible, substantial, and exclusive,” in connection with a change of possession, mean substantially the same thing. They mean not concealed, not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain; absolute; real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including, admiring, or pertaining to any others; undivided; sole; opposed to inclusive.

## \*\*\*circumvention

## crouch

Obama will signing statement the aff—hollows the restriction out

Jeffrey Crouch, assistant professor of American politics at American University, Mark J. Rozell, acting dean and a professor of public policy at George Mason University, and Mitchel A. Sollenberger, associate professor of political science at the University of Michigan-Dearborn, December 2013, The Law: President Obama's Signing Statements and the Expansion of Executive Power, Presidential Studies Quarterly 43.4

In a January 2013 signing statement, President Barack Obama stated that his constitutional powers as president limited him to signing or vetoing a law outright and that he lacked the authority to reject legislative provisions “one by one.” Yet he then proceeded in a nearly 1,200 word statement to pick the law apart, section by section, and to effectively challenge many provisions by declaring that they violated his constitutional powers as commander in chief. According to his signing statement, a provision restricting the president's authority to transfer detainees to foreign countries “hinders the Executive's ability to carry out its military, national security, and foreign relations activities and would, under certain circumstances, violate constitutional separation of powers principles” (Obama 2013). Obama did not mention, however, that Congress specifically authorized transfers to foreign countries as long as the secretary of defense, with the concurrence of the secretary of state and in consultation with the director of national intelligence, certified that the foreign government receiving the detainees was not a designated state sponsor of terrorism and possessed control over the facility the individual would be housed (P.L. 112-239; see Fisher 2013). Obama also objected to a number of provisions that he claimed would violate his “constitutional duty to supervise the executive branch” and several others that he said could encroach upon his “constitutional authority to recommend such measures to the Congress as I ‘judge necessary and expedient.’ My Administration will interpret and implement these provisions in a manner that does not interfere with my constitutional authority” (Obama 2013). What the president could not block or modify through concessions or veto threats during budget negotiations with members of Congress, he decided he could unilaterally strip from a signed bill. Similar to his predecessor, George W. Bush, Obama suggested that he was the ultimate “decider” on what is constitutional and proper. Few acts by occupants of the White House so completely embody the unchecked presidency. Candidate Obama on Signing Statements President Obama's actions have been surprising given that he proclaimed while first running for his office that he would not issue signing statements that modify or nullify acts of Congress (YouTube 2013 2013). In a December 2007 response to the Boston Globe, presidential candidate Obama provided a detailed explanation for his thinking: “I will not use signing statements to nullify or undermine congressional instructions as enacted into law. The problem with [the George W. Bush] administration is that it has attached signing statements to legislation in an effort to change the meaning of the legislation, to avoid enforcing certain provisions of the legislation that the President does not like, and to raise implausible or dubious constitutional objections to the legislation” (Savage 2007a). Candidate Obama's objection to President Bush's actions centered on one of the three varieties of signing statement, in this case, a “constitutional” signing statement. In a “constitutional” signing statement, a president not only points out flaws in a bill, but also declares—in often vague language—his intent not to enforce certain provisions. Such statements may be different than ones that are “political” in nature. In “political” signing statements, a president gives executive branch agencies guidance on how to apply the law.1 Finally, the most common type of signing statements are “rhetorical,” whereby the intent of the president is to focus attention on one or more provisions for political gain (Kelley 2003, 45-50). President Obama's Policy on Signing Statements At the start of his term, it seemed that President Obama would honor his campaign commitments and break with his predecessor when he issued a memorandum to heads of executive branch departments and agencies regarding his policy on signing statements. In this memorandum, he wrote, “there is no doubt that the practice of issuing [signing] statements can be abused.” He objected to the use of signing statements where a president disregards “statutory requirements on the basis of policy disagreements.” Only when signing statements are “based on well-founded constitutional objections” do they become legitimate. Therefore, “in appropriately limited circumstances, they represent an exercise of the President's constitutional obligation to take care that the laws be faithfully executed, and they promote a healthy dialogue between the executive branch and the Congress.” President Obama proceeded to list four key principles he would follow when issuing signing statements: (1) Congress shall be informed, “whenever practicable,” of the president's constitutional objections; (2) the president “will act with caution and restraint” when issuing statements that are based on “well-founded” constitutional interpretations; (3) there will be “sufficient specificity” in each statement “to make clear the nature and basis of the constitutional objection”; and finally, (4) the president would “construe a statutory provision in a manner that avoids a constitutional problem only if that construction is a legitimate one” (Obama 2009a). Media coverage praised President Obama's action. The Boston Globe declared, “Obama reins in signing statements” (Editorial 2009). David Jackson of USA Today reported, “Obama tried to overturn his predecessor again on Monday, saying he will not use bill signing statements to tell his aides to ignore provisions of laws passed by Congress that he doesn't like” (Jackson 2009). Another reporter noted, President Obama “signaled that, unlike Bush, he would not use signing statements to do end runs around Congress” (James 2009). Any expectations for a shift in the exercise of signing statements ultimately were misplaced, as President Obama, like his predecessor, has used signing statements in ways that attempt to increase presidential power. In this article, we first describe and analyze the continuity of policy and action between Barack Obama and George W. Bush. Second, we address why signing statements—at least one type of them—can not only be unconstitutional abuses of presidential power, but may also be unproductive tools for promoting interbranch dialogue and cooperation. Third, we show that signing statements are a natural result of expanding power in the modern presidency and that they have come to be used as a means of unilateral executive action. Finally, we provide a possible corrective to some of the more aggressive forms of constitutional signing statements that impact appropriations.

## congress doesn’t check

Congress cant check use of force

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 6-8

The role that Congress plays in deciding whether a war is continued or concluded is of intrinsic interest to academics, policymakers, and casual observers of contemporary American politics alike. Yet the belief that Congress retains some capacity to shape the conduct of military affairs after a venture is launched is also a critically important and untested proposition underlying most theories **asserting** congressional influence over the initiation of military action. Why, according to this emerging literature, do presidents facing a strong opposition party in Congress use force less frequently than do their peers with strong partisan majorities in Congress? The most commonly offered answer is that presidents anticipate Congress's likely reaction to a prospective use of force and respond accordingly.14 Presidents who confront an opposition-led Congress anticipate that it is more willing and able to challenge the administration's conduct of military action than a Congress controlled by their partisan allies. Therefore, the frequency with which presidents use force abroad covaries with the strength of their party in Congress. However, this anticipatory logic requires that Congress has the ability to raise the costs of military action for the president, once that action has begun. If Congress lacks this capacity, presidents have little reason to adjust their willingness to initiate the use of force in anticipation of an adverse congressional response." As a result, determining whether and how Congress can influence the scope and duration of ongoing military operations is critically important even to evaluating prior research that asserts congressional influence over the initiation of military actions. Without it, such analyses rest on shaky ground. Unfortunately, because the dynamics change dramatically once American troops are deployed abroad, simply drawing lessons from existing studies of interbranch dynamics in military policymaking at the conflict initiation phase and applying them to the conflict conduct phase is unlikely to offer much insight." The decision-making environment at the conflict conduct phase differs from that at the conflict initiation phase along at least three key dimensions: the incentives and constraints governing congressional willingness to challenge presidential discretion; the relative institutional capacities of the executive and legislative branches to affect military policymaking; and finally, the ability of unfolding conflict events to change further the political and strategic environment in which the two branches vie for power. With regard to the political constraints that limit would-be adversaries in Congress, the president may **be in an even stronger position** after American troops are deployed in the field. Ordering troops abroad is akin to other unilateral presidential actions; by seizing his office's capacity for independent action, a president can dramatically **change the status quo** and fundamentally alter the political playing field on which Congress and other actors must act to challenge his policies.17 Once the troops are overseas, the political stakes for any congressional challenge to the president's policies are inexorably raised; any such effort is subject to potentially ruinous charges of failing to support the troops. Georgia Senator Richard Russell's conversion from opposition to U.S. intervention in Vietnam in the early 196os to stalwart support for staying the course after Lyndon Johnson's escalation of the American commitment there illustrates this change: "We are there now, and the time for debate has passed. Our flag is committed, and—more importantly—American boys are under fire."" Russell's sentiment was loudly echoed forty years later in the allegations by the Bush administration and its partisan allies in Congress that any legislative efforts to curtail the war in Iraq undermined the troops. As a result of these potentially **intense political costs**, there are reasons to question whether Congress can mount an effective challenge to the policies of the commander in chief. If it cannot, this would compel a reassessment of prior theories asserting congressional influence over the initiation of military actions through the logic of anticipated response. Certainly, more empirical analysis is needed to answer this question.

## at barron

The next two paragraphs say their view is outdated and that modern presidents are likely to circumvent

Barron ‘8

David J., Professor of Law at Harvard Law School and Martin S. Lederman, Visiting Professor of Law at the Georgetown University Law Center, “The Commander in Chief at the Lowest Ebb -- A Constitutional History”, Harvard Law Review, February, 121 Harv. L. Rev. 941

Thus, as future administrations contemplate the extent of their own discretion at the "lowest ebb," they will be faced with an important choice. They can build upon a practice rooted in a fundamental ac- ceptance of the legitimacy of congressional control over the conduct of campaigns that prevailed without substantial challenge through World War II. Or they can cast their lot with the **more recent view**, espoused to some extent by **most** - though not all - **modern Presidents**, that the principle of **exclusive control over the conduct of war provides the baseline from which to begin thinking about the Commander in Chief's** proper **place in the constitutional structure**. We conclude that it would be wrong to assume, as some have sug- gested, that **the emergence of such preclusive claims will be self- defeating, inevitably inspiring a popular and legislative reaction that will leave the presidency especially weakened**. The more substantial concern is the opposite one. The risk is that the emergence of such claims will subtly but increasingly influence future Executives to **es- chew** the harder work of accepting **legislative constraints** as legitimate and actively working to make them tolerable by building public sup- port for modifications. Over time, the prior practice we describe could well become at **best a faintly remembered one**, set aside on the ground that it is unsuited for what are thought to be **the unique perils of the contemporary world.** Our hope, therefore, is that by presenting this longstanding constitutional practice of congressional engagement and executive accommodation as a workable alternative, such forgetting will be far less likely to occur.

## \*\*\*case—cred

## 2nc no adventurism

Obama solves

Kaplan 14 (Robert D. Kaplan is Chief Geopolitical Analyst at Stratfor, a geopolitical analysis firm, 1/30/2014, "Debating Rouhani in Post-Imperial America", www.realclearworld.com/articles/2014/01/30/what\_rouhani\_means\_for\_post-imperial\_america-2.html)

The skeptical vision, because it believes in American dominance, actively considers an American military strike on Iran desirable if the talks fail. The Obama vision rejects the idea of a military strike because it knows just how difficult such a strike would be, and that the president would be blamed for all the things that could go wrong with it.

America, quite simply, has been an imperial power, whether it has intervened for reasons of state or for humanitarian motives. The Obama administration represents America's first full-fledged, post-imperial presidency since before World War II.

The Obama White House is indicative of America's exhaustion. It looks around the world and sees a sprawling, epic mess in Syria that would make Libya seem easy. It sees an attack on Iran as perhaps igniting an even worse regional cataclysm. It sees Egypt as ugly but momentarily stable: So why do anything about it? It sees Russia as intractably autocratic and formidable. It sees an Asia-Pacific region where stability has been too long taken for granted. It sees places like the Central African Republic and South Sudan as heartrending but, alas, marginal. And it sees the opportunities that do exist often lying closer to home in America's own hemisphere -- namely, economically resurgent Mexico.

The Rouhani skeptics are not exhausted, however. They ask in almost all of these cases why America can't do more -- much more, in fact. Some of these people are humanitarians. Some believe in muscular interests of state. Some fall into both categories. The toughest sanctions and interventions is what they are often about.

The problem with the Rouhani skeptics is that they are not cognizant of what Yale historian Paul Kennedy labels "imperial overstretch," that is, hastening a great power's demise by over-burdening it with far-flung responsibilities. The problem with the Obama administration's bet on Rouhani is that post-World War I imperial exhaustion was precisely the background to appeasement: the mood of no more bloody quagmires, no matter what. While Iran is not Nazi Germany, an Iran with a nuclear breakout capability may pose a regional security dilemma much worse than any that exists at present.

No impact – zero risk of entanglement

Hurrell 6 (Director of the Centre for International Studies at the University of Oxford and a Fellow of Nuffield College, Oxford (Andrew, Hegemony, liberalism and global order: what space for would-be great powers? (p 1-19), International Affairs, January 24, 2006)

The contrast with the United States is instructive. Much is made of the unique position of the United States and the degree to which, unlike all other modern great powers, it faced no geopolitical challenge from within its region and was able to prevent, or more accurately contain, the influence of extraregional powers. This is certainly true (even if the rise of the US to regional hegemony is often dated too early and its extent exaggerated). But the other important regional aspect of US power is the ability to avoid excessively deep entanglement or involvement and, for the most part, to escape from ensnaring and diverting lower-level conflicts within its ‘backyard’. It has been able to take the region for granted and, for long periods, to avoid having a regional policy at all (as has arguably been the case since 2001). It is this fact that, perhaps counterintuitively, provides Brazil with some capacity to develop a relatively autonomous regional role. Second, attempts to develop a global role can easily stir the animosity, or at least raise the concerns, of regional Panama and the Gulf. A passive world-view encouraged American leaders to ignore troubling developments which eventually metastasized into full blown threats to American security. Manuel Noriega and Saddam Hussein were given reason to believe that the United States did not consider its interests threatened by their behavior, only to discover that they had been misled. In each case, a broader and more forward-leaning conception of the national interest might have made the later large and potentially costly interventions unnecessary.

If their impact scenarios are true they will never happen – military dissent and ethics prevent large scale mistakes regardless of presidential authority

**Owens 12 -** professor of national security affairs in the National Security Affairs Department of the Naval War College (Mackubin Thomas, 2012, “WHAT MILITARY OFFICERS NEED TO KNOW ABOUT CIVIL-MILITARY RELATIONS,” http://pubs.mantisintel.com/nps56-030812-16.pdf)JCP

Don Snider accepts the idea of broadening the choices available to uniformed officers when faced with what they believe to be flawed policy decisions by civilians but questions whether the two variables employed by Wong and Lovelace alone provide adequate guidance for a strategic leader of the American military profession who is considering dissent.40 For Snider, the imperatives of military professionalism and the “trust” relationship between the military profession and other entities within American society and government also must play roles. Snider suggests three trust relationships, to be rated along a continuum ranging from “fully trusted”—the ideal—to “not trustworthy.” The three relationships are that between the military profession and the American people; that between the military profession and the people’s elected representatives, in both the executive and legislative branches; and that between senior leaders of the military profession and their subordinate leaders.41

Following Huntington, Snider identifies three responsibilities of military leaders. The first is the “representative function,” the professional requirement “to represent the claims of military security within the state machinery”—that is, to “express their expert point of view on any matter touching the creation, maintenance, use, or contemplated use of the armed forces.” The second responsibility is to exercise the “advisory function.” This is the professional imperative “to analyze and to report on the implications of alternative courses of action from the military point of view,” and to provide “candid professional military advice to elected and appointed civilian leaders, regardless of whether the advice was solicited or regardless of whether the advice is likely to be welcomed.” Such advice does not include policy advocacy, which both Huntington and Snider consider beyond the legitimate role of military officers. The third responsibility is to exercise the “executive function.” This requires the military professional “to implement state decisions with respect to state security even if it is a decision which runs violently counter to his military judgment.”42

Having laid out the three trust relationships and the three responsibilities of professional military leaders, Snider addresses how the “other” in each trust relationship involving the military profession—respectively, the American people, civilian leaders, and junior leaders within the military profession itself—perceives and understands acts of dissent on the part of the military profession’s senior leaders. Such a moral analysis, he argues, must address at least five considerations. The first is the gravity of the issue to the nation and therefore to the clients of the military profession. The second is the relevance of the strategic leader’s expertise with regard to the issue that might impel dissent. Does the issue at hand fall squarely within the scope of the dissenter’s expertise as a military professional? The third consideration is the degree of sacrifice on the part of the dissenter. Is the dissent motivated solely by a disinterested desire to serve the nation, even in the face of personal sacrifice, or does it involve a self-serving subtext, such as the advancement of the dissenter’s own professional or political ambitions? The fourth consideration is the timing of the act of dissent. Was it timed to undercut the actions or policy from which the officer wishes to dissent? Finally, is the act of dissent congruent with the prior, long-term character and beliefs of the dissenter? Does the dissent strike those who know the dissenter as uncharacteristic or atypical?43 Snider goes on to argue that a complete assessment on the part of the dissenter would analyze the five considerations in the light of the three trust relationships. Of course, in practice, argues Snider, some factors are more salient than others. Like Wong and Lovelace, he believes that the gravity of the issue with regard to national security is most important. “Logically, the higher the stakes, the greater the temptation and justification will be for dissenters to speak out.”44 This is the case because the only reason to have a military is to ensure national security. That is what the military profession is all about. Of course, to engage in dissent, no matter the stakes, seems to be in conflict with the inviolate principle of the subordination of the military to civilian authority. The interpretation of acts of dissent is complicated, argues Snider, by the deeply polarized nature of American politics today and the perception on the part of some that the military as an institution has become too identified with the Republican Party.45

The moral calculus of dissent also requires that we consider the relevance of the expertise and knowledge of the dissenter. Why should we listen to the dissenter? “If the issue does not fit within the compass of the profession’s expertise, or only marginally so, one would expect observers to dismiss dissenters as freelancers operating without standing, much as an Oscar-winning Hollywood actor who sets up shop as an authority on national defense.”46 Part of the problem with this criterion is that the meaning of professional military expertise has changed since Huntington’s time. Following Harold Lasswell, Huntington referred to the expertise of the professional military officer as the “management of violence.” But today that description seems far too narrow. The fact is that today’s military officer is really a “national security professional,” whose expertise extends to the interconnected intellectual space of everything from strategic theory, strategic thinking, and strategy formation to diplomacy, nation building, and homeland defense.47 Thus in practice it is sometimes difficult to differentiate between what military and civilian national security professionals do.48 As historical examples cited earlier illustrate, even when it comes to purely military affairs the professional military officer is not necessarily more correct than the civilians.

The sacrifice incurred by the dissenter and the timing of the dissent must be judged according to the standard of common sense. “For the true professional, a right understanding of one’s loyalties always places loyalty to self dead last. Thus, absent personal sacrifice, such dissent quickly leads to the suspicion of and the search for ulterior motives.”49 The same applies to the timing of the dissent. “If something is worthy of an act of dissent, then it is worthy. Thus, as soon as that is discerned and decided by the strategic leader, the act should follow immediately.” If there is a substantial delay, the other partners in the trust relationship, especially the subordinate leaders within the profession, may suspect a lack of moral agency on the part of the dissenter as well as the impact of ulterior motives on the act. Finally, it is critical that the strategic leader contemplating dissent be an authentic leader of competence and moral integrity who has previously displayed a steadfastness of character. Subordinates who judge leaders to be cynical or lacking in integrity are unlikely to construe an act of dissent by such individuals as disinterested.

In principle, U.S. military officers accept civilian control and recognize the limits of dissent. But as the previous discussion illustrates, the actual practice of military subordination is complicated by a number of factors. The first of these is organizational and institutional—the separation of powers related to military affairs between the executive and legislative branches. But even more important is the tension between the loyalty and obedience of military professionals, on the one hand, and their military judgment and moral beliefs, on the other. The civil-military tensions visible both before and since 9/11 are illustrative of these complications.

## \*\*\*case—russia

## no war

Russian war doesn’t cause extinction

Bostrom 7(Nick, Oxford Future of Humanity Institute, Faculty of Philosophy & James Martin 21st Century School. "The Future of Humanity," New Waves in Philosophy of Technology, http://www.nickbostrom.com/)

Extinction risks constitute an especially severe subset of what could go badly wrong for humanity. There are many possible global catastrophes that would cause immense worldwide damage, maybe even the collapse of modern civilization, yet fall short of terminating the human species. An all-out nuclear war between Russia and the United States might be an example of a global catastrophe that would be unlikely to result in extinction. A terrible pandemic with high virulence and 100% mortality rate among infected individuals might be another example: if some groups of humans could successfully quarantine themselves before being exposed, human extinction could be avoided even if, say, 95% or more of the world's population succumbed. What distinguishes extinction and other existential catastrophes is that a comeback is impossible. A non-existential disaster causing the breakdown of global civilization is, from the perspective of humanity as a whole, a potentially recoverable setback: a giant massacre for man, a small misstep for mankind.

Conflicts will never go nuclear – prefer Russian generals

Ivashov 7 (Colonel General Leonid Ivashov, President of the Academy of Geopolitical Problems, 2007. Defense and Security, “Will America Fight Russia?” p. Lexis)

Numerous scenarios and options are possible. Everything may begin as a local conflict that will rapidly deteriorate into a total confrontation. An ultimatum will be sent to Russia: say, change the domestic policy because human rights are allegedly encroached on, or give Western businesses access to oil and gas fields. Russia will refuse and its objects (radars, air defense components, command posts, infrastructure) will be wiped out by guided missiles with conventional warheads and by aviation. Once this phase is over, an even stiffer ultimatum will be presented - demanding something up to the deployment of NATO "peacekeepers" on the territory of Russia. Refusal to bow to the demands will be met with a mass aviation and missile strike at Army and Navy assets, infrastructure, and objects of defense industry. NATO armies will invade Belarus and western Russia. Two turns of events may follow that. Moscow may accept the ultimatum through the use of some device that will help it save face. The acceptance will be followed by talks over the estrangement of the Kaliningrad enclave, parts of the Caucasus and Caspian region, international control over the Russian gas and oil complex, and NATO control over Russian nuclear forces. The second scenario involves a warning from the Kremlin to the United States that continuation of the aggression will trigger retaliation with the use of all weapons in nuclear arsenals. It will stop the war and put negotiations into motion.

No accidents or miscalculation

Ball 6 (Desmond, Special Professor at the Strategic and Defence Studies Centre at the Australian National University, “The Probabilities of ‘On the Beach,’” May, rspas.anu.edu.au/papers/sdsc/wp/wp\_sdsc\_401.pdf)

The prospects of a nuclear war between the United States and Russia must now be deemed fairly remote. There are now no geostrategic issues that warrant nuclear competition and no inclination in either Washington or Moscow to provoke such issues. US and Russian strategic forces have been taken off day-to-day alert and their ICBMs ‘de-targeted’, greatly reducing the possibilities of war by accident, inadvertence or miscalculation. On the other hand, while the US-Russia strategic competition is in abeyance, there are several aspects of current US nuclear weapons policy which are profoundly disturbing. In December 2001 President George W. Bush officially announced that the United States was withdrawing from the Anti-Ballistic Missile (ABM) Treaty of 1972, one of the mainstays of strategic nuclear arms control during the Cold War, with effect from June 2002, and was proceeding to develop and deploy an extensive range of both theatre missile defence and national missile defence (NMD) systems. The first anti-missile missile in the NMD system, designed initially to defend against limited missile attacks from China and North Korea, was installed at Fort Greely in Alaska in July 2004. The initial system, consisting of sixteen interceptor missiles at Fort Greely and four at Vandenberg Air Force in California, is expected to be operational by the end of 2005. The Bush Administration is also considering withdrawal from the Comprehensive Test Ban Treaty and resuming nuclear testing. (The last US nuclear test was on 23 September 1992). In particular, some key Administration officials believe that testing is necessary to develop a ‘new generation’ of nuclear weapons, including low-yield, ‘bunker-busting’, earth-penetrating weapons specifically designed to destroy very hard and deeply buried targets (such as underground command and control centres and leadership bunkers).

We would crush them

Sharavin 7 (Alexander Sharavin, Director of the Institute of Political and Military Analysis, 2007. Defense and Security, “Will America Fight Russia?” p. Lexis)

The United States may count on a mass air raid and missile strike at objects of the Russian strategic nuclear forces and, perhaps, some objects of other branches of the Russian military. Plus, of course, at the military and political planning centers. Whatever targets may escape destruction on the first try will be bombed out of existence by repeated strikes. And Russia will have nothing to answer with. Even if some elements of the strategic nuclear forces survive, they will fall prey to the American national missile defense. The American strategic missile forces in their turn will escape the war unscathed.

## 2nc no military

Zero military response

Wilson 3-25 [[Scott Wilson](http://www.washingtonpost.com/scott-wilson/2011/03/02/ABt5vmP_page.html) and [Will Englund](http://www.washingtonpost.com/will-englund/2011/03/02/AB55GIQ_page.html) (Washington Post); “Obama calls Russia a ‘regional power,’ warns of more sanctions if it expands military moves”; March 25, 2014; <http://www.washingtonpost.com/world/ousted-by-g-8-russia-says-it-will-remain-at-the-table-of-larger-g20/2014/03/25/2f70284a-b404-11e3-b899-20667de76985_story.html>]

THE HAGUE — President Obama acknowledged Tuesday that Russian President Vladimir Putin’s annexation of Crimea would be difficult to reverse, as Russia’s government announced plans to significantly increase forces on the Black Sea peninsula and create new ways to minimize the effect of Western economic sanctions.

Concluding a summit here on nuclear security, Obama warned that broader Russian military intervention in neighboring countries would trigger further [economic sanctions](http://www.washingtonpost.com/world/national-security/obama-expands-sanctions-against-top-aides-associates-of-putin-over-annexation-of-crimea/2014/03/20/ad5166f8-b04d-11e3-a49e-76adc9210f19_story.html) that would disrupt the global economy but hit Russia the hardest. He pointedly called Russia a “regional power” acting out of political isolation and economic uncertainty.

Obama dismissed criticism [that a perception of U.S. retreat](http://www.washingtonpost.com/politics/ukraine-crisis-tests-obamas-foreign-policy-focus-on-diplomacy-over-military-force/2014/03/01/c83ec62c-a157-11e3-9ba6-800d1192d08b_story.html) abroad had prompted Putin to seize [the Crimea region](http://www.washingtonpost.com/world/a-ukraine-without-crimea/2014/03/21/bc0d57e4-b118-11e3-a49e-76adc9210f19_graphic.html) this month, an act the United States and Europe have said was a violation of Ukrainian and international law. **But Obama made clear that** Western nations are not contemplating a military response**,** unless Putin pushes into NATO member nations on Russia’s western border.

“**There’s no expectation that they will be dislodged by force**,” Obama said in a news conference with Dutch Prime Minister Mark Rutte, who hosted the [Nuclear Security Summit.](https://www.nss2014.com/en) “And so what **we can bring to bear are the legal arguments, the diplomatic arguments, the political pressure, the economic sanctions that are already in place, to try to make sure that there’s a cost to that process.”**

That won’t change – its Obama’s doctrine

Hirsh 3/20 [[Michael Hirsh](http://www.nationaljournal.com/reporters/bio/42) (Chief correspondent, National Journal); “In Ukraine as in Syria, the 'Obama Doctrine' Rules: No Military Aid: The president won't arm Ukraine or use U.S. forces despite Russian troop deployment.”; March 20, 2014; http://www.nationaljournal.com/white-house/in-ukraine-as-in-syria-the-obama-doctrine-rules-no-military-aid-20140320]

**Obama** administration officials **said** Thursday that **they are** not considering **arming the Ukrainian military**,

even as they raised alarms about the deployment of Russian forces along that country's southern and eastern borders. It amounted to another iteration of a **pattern** observed in the two-year debate over Syria's civil war, **an** emerging "Obama doctrine**" in which the only pressure tools contemplated in a crisis are nonlethal aid and economic sanctions.**

"**Nobody wants the outcome here to be a** full-bore military conflict **between Ukraine and Russia**," said a senior administration official in a conference call with reporters, although he earlier indicated the president was "deeply concerned by the positioning of Russian forces in southern and eastern Ukraine."

**At the same time the administration announced more sanctions** against Russian officials, as well as a "crony bank" called Bank Rossiya, Russia's 17th largest, which is controlled by Yuri Kovalchuk, whom the Treasury Department calls the "personal banker" to Russian President Vladimir Putin and other senior officials. One U.S. official promised that the administration was "working actively to prepare additional sanctions."

# 1nr

## 1NR Impact

#### Military operations solve all conflict so there’s only a risk of the DA

Kagan and O’Hanlon 7

Frederick Kagan and Michael O’Hanlon, Fred’s a resident scholar at AEI, Michael is a senior fellow in foreign policy at Brookings, “The Case for Larger Ground Forces”, April 24, 2007, <http://www.aei.org/files/2007/04/24/20070424_Kagan20070424.pdf>

We live at a time when wars not only rage in nearly every region but threaten to erupt in many places where the current relative calm is tenuous. To view this as a strategic military challenge for the United States is not to espouse a specific theory of America’s role in the world or a certain political philosophy. Such an assessment flows directly from the basic bipartisan view of American foreign policy makers since World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the international system is essential to American peace and prosperity, and that no country besides the United States is in a position to lead the way in countering major challenges to the global order. Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the world such as the Persian Gulf and East Asia, or key potential threats to American security, such as the spread of nuclear weapons and the strengthening of the global Al Qaeda/jihadist movement. The Iranian government has rejected a series of international demands to halt its efforts at enriching uranium and submit to international inspections. What will happen if the US—or Israeli—government becomes convinced that Tehran is on the verge of fielding a nuclear weapon? North Korea, of course, has already done so, and the ripple effects are beginning to spread. Japan’s recent election to supreme power of a leader who has promised to rewrite that country’s constitution to support increased armed forces—and, possibly, even nuclear weapons— may well alter the delicate balance of fear in Northeast Asia fundamentally and rapidly. Also, in the background, at least for now, SinoTaiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and Afghanistan, Venezuela and the United States, and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on offer, the bloodletting will probably, tragically, continue unabated. And as bad as things are in Iraq today, they could get worse. What would happen if the key Shiite figure, Ali al Sistani, were to die? If another major attack on the scale of the Golden Mosque bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is somewhat more stable for the moment, although a major Taliban offensive appears to be in the offing. Sound US grand strategy must proceed from the recognition that, over the next few years and decades, the world is going to be a very unsettled and quite dangerous place, with Al Qaeda and its associated groups as a subset of a much larger set of worries. The only serious response to this international environment is to develop armed forces capable of protecting America’s vital interests throughout this dangerous time. Doing so requires a military capable of a wide range of missions—including not only deterrence of great power conflict in dealing with potential hotspots in Korea, the Taiwan Strait, and the Persian Gulf but also associated with a variety of Special Forces activities and stabilization operations. For today’s US military, which already excels at high technology and is increasingly focused on re-learning the lost art of counterinsurgency, this is first and foremost a question of finding the resources to field a large-enough standing Army and Marine Corps to handle personnel intensive missions such as the ones now under way in Iraq and Afghanistan.

#### Kills the economy, causes nuclear meltdowns, and nuclear war – all cause extinction

Guterl, executive editor – Scientific American, 11/28/’12

(Fred, “Armageddon 2.0,” Bulletin of the Atomic Scientists)

The world lived for half a century with the constant specter of nuclear war and its potentially devastating consequences. The end of the Cold War took the potency out of this Armageddon scenario, yet the existential dangers have only multiplied.Today the technologies that pose some of the biggest problems are not so much military as commercial. They come from biology, energy production, and the information sciences -- and are the very technologies that have fueled our prodigious growth as a species. They are far more seductive than nuclear weapons, and more difficult to extricate ourselves from. The technologies we worry about today form the basis of our global civilization and are essential to our survival.The mistake many of us make about the darker aspects of our high-tech civilization is in thinking that we have plenty of time to address them. We may, if we're lucky. But it's more likely that we have less time than we think. There may be a limited window of opportunity for preventing catastrophes such as pandemics, runaway climate change, and cyber attacks on national power grids. Emerging diseases. The influenza pandemic of 2009 is a case in point. Because of rising prosperity and travel, the world has grown more conducive to a destructive flu virus in recent years, many public health officials believe. Most people probably remember 2009 as a time when health officials overreacted. But in truth, the 2009 virus came from nowhere, and by the time it reached the radar screens of health officials, it was already well on its way to spreading far and wide. "H1N1 caught us all with our pants down," says flu expert Robert G. Webster of St. Jude Children's Research Hospital in Memphis, Tennessee. Before it became apparent that the virus was a mild one, health officials must have felt as if they were staring into the abyss. If the virus had been as deadly as, say, the 1918 flu virus or some more recent strains of bird flu, the result would have rivaled what the planners of the 1950s expected from a nuclear war. It would have been a "total disaster," Webster says. "You wouldn't get the gasoline for your car, you wouldn't get the electricity for your power, you wouldn't get the medicines you need. Society as we know it would fall apart." Climate change. Climate is another potentially urgent risk. It's easy to think about greenhouse gases as a long-term problem, but the current rate of change in the Arctic has alarmed more and more scientists in recent years. Tim Lenton, a climate scientist at the University of Exeter in England, has looked at climate from the standpoint of tipping points -- sudden changes that are not reflected in current climate models. We may already have reached a tipping point -- a transition to a new state in which the Arctic is ice-free during the summer months. Perhaps the most alarming of Lenton's tipping points is the Indian summer monsoon. Smoke from household fires, and soot from automobiles and buses in crowded cities, rises into the atmosphere and drifts out over the Indian Ocean, changing the atmospheric dynamics upon which the monsoon depends -- keeping much of the sun's energy from reaching the surface, and lessening the power of storms. At the same time, the buildup of greenhouse gases -- emitted mainly from developed countries in the northern hemisphere -- has a very different effect on the Indian summer monsoon: It makes it stronger. These two opposite influences make the fate of the monsoon difficult to predict and subject to instability. A small influence -- a bit more carbon dioxide in the atmosphere, and a bit more brown haze -- could have an outsize effect. The Indian monsoon, Lenton believes, could be teetering on a knife's edge, ready to change abruptly in ways that are hard to predict. What happens then? More than a billion people depend on the monsoon's rains. Other tipping points may be in play, says Lenton. The West African monsoon is potentially near a tipping point. So are Greenland's glaciers, which hold enough water to raise sea levels by more than 20 feet; and the West Antarctic Ice Sheet, which has enough ice to raise sea levels by at least 10 feet. Regional tipping points could hasten the ill effects of climate change more quickly than currently projected by the Intergovernmental Panel on Climate Change. Computer hacking. The computer industry has already made it possible for computers to handle a variety of tasks without human intervention. Autonomous computers, using techniques formerly known as artificial intelligence, have begun to exert control in virtually every sphere of our lives. Cars, for instance, can now take action to avoid collisions. To do this, a car has to make decisions: When does it take control? How much braking power should be applied, and to which wheels? And when should the car allow its reflex-challenged driver to regain control? Cars that drive themselves, currently being field tested, could hit dealer showrooms in a few years. Autonomous computers can make our lives easier and safer, but they can also make them more dangerous. A case in point is Stuxnet, the computer worm designed by the US and Israel to attack Iran's nuclear fuel program. It is a watershed in the brief history of malware -- the Jason Bourne of computer code, designed for maximum autonomy and effectiveness. Stuxnet's creators gave their program the best training possible: they stocked it with detailed technical knowledge that would come in handy for whatever situation Stuxnet could conceivably encounter. Although the software included rendezvous procedures and communication codes for reporting back to headquarters, Stuxnet was built to survive and carry out its mission even if it found itself cut off. The uranium centrifuges that Stuxnet attacked are very similar in principle to the generators that power the US electrical grid. Both are monitored and controlled by programmable-logic computer chips. Stuxnet cleverly caused the uranium centrifuges to throw themselves off-balance, inflicting enough damage to set the Iranian nuclear industry back by 18 months or more. A similar piece of malware installed on the computers that control the generators at the base of the Grand Coulee Dam would likewise cause them to shake, rattle, and roll -- and eventually explode. If Stuxnet-like malware were to insinuate itself into a few hundred power generators in the United States and attack them all at once, the damage would be enough to cause blackouts on the East and West Coasts. With such widespread destruction, it could take many months to restore power to the grid. It seems incredible that this should be so, but the worldwide capacity to manufacture generator parts is limited. Generators generally last 30 years, sometimes 50, so normally there's little need for replacements. The main demand for generators is in China, India, and other parts of rapidly developing Asia. That's where the manufacturers are -- not in the United States. Even if the United States, in crisis mode, put full diplomatic pressure on supplier nations -- or launched a military invasion to take over manufacturing facilities -- the capacity to ramp up production would be severely limited. Worldwide production currently amounts to only a few hundred generators per year. The consequences of going without power for months, across a large swath of the United States, would be devastating. Backup electrical generators in hospitals and other vulnerable facilities would have to rely on fuel that would be in high demand. Diabetics would go without their insulin; heart attack victims would not have their defibrillators; and sick people would have no place to go. Businesses would run out of inventory and extra capacity. Grocery stores would run out of food, and deliveries of all sorts would virtually cease (no gasoline for trucks and airplanes, trains would be down). As we saw with the blackouts caused by Hurricane Sandy, gas stations couldn't pump gas from their tanks, and fuel-carrying trucks wouldn't be able to fill up at refueling stations. Without power, the economy would virtually cease, and if power failed over a large enough portion of the country, simply trucking in supplies from elsewhere would not be adequate to cover the needs of hundreds of millions of people. People would start to die by the thousands, then by the tens of thousands, and eventually the millions. The loss of the power grid would put nuclear plants on backup, but how many of those systems would fail, causing meltdowns, as we saw at Fukushima? The loss in human life would quickly reach, and perhaps exceed, the worst of the Cold War nuclear-exchange scenarios. After eight to 10 days, about 72 percent of all economic activity, as measured by GDP, would shut down, according to an analysis by Scott Borg, a cybersecurity expert.

## link uniqueness ov

Issue specific uniqueness prices in link uniqueness—Congress has shifted to NSA and can get it done within constraints

Ellen Nakashima, WaPo, 3/27/14, White House pushes Congress to quickly pass changes to NSA surveillance program, www.washingtonpost.com/world/national-security/white-house-pushes-congress-to-quickly-pass-changes-to-nsa-surveillance-program/2014/03/27/1a2c4052-b5b9-11e3-8cb6-284052554d74\_story.html?wprss=rss\_politics

The Obama administration has called on Congress to move quickly to pass legislation that would achieve the president’s goal of ending government mass collection of Americans’ phone records. “Having carefully considered the available options, I have decided that the best path forward is that the government should not collect or hold this data in bulk,” President Obama said in a statement Thursday, adding that “legislation will be needed.” “We really hope that the Congress can act swiftly,” said a senior administration official, who spoke in a conference call with reporters on the condition of anonymity. The official did not specify a timeline but noted that the administration was reauthorizing on Friday the current system of data collection by the National Security Agency for another 90 days, suggesting that that would be an appropriate window of time for lawmakers to act. Obama said in a speech in January that he wanted to end the government’s gathering and storage of what officials say are hundreds of billions of records about Americans’ phone calls. Since the program was disclosed in June, it has prompted concern about the potential for abuse. At the same time, Obama has said he believes the government needs to preserve a capability to seek clues to terrorist plots that officials say can be hidden in the records. That is why, the senior official suggested, the administration is not simply ending the mass collection now. Instead, the official said, it is seeking legislation to establish a “new program.” Attention now shifts to Congress, which has before it several competing bills that seek varying degrees of change — some more ambitious than the White House’s. But Obama’s proposal has become the baseline, analysts said.

Ukraine’s impact on the Congressional agenda is resolved

Deb Riechman, HuffPo, 3/27/14, Ukraine Aid Bill: Congress Rushes To Pass Legislation Containing Loans, Sanctions, www.huffingtonpost.com/2014/03/27/ukraine-aid-bill\_n\_5040236.html

Congress spoke with one voice on Thursday against Russia's annexation of Crimea, passing legislation in the House and Senate giving help to cash-strapped Ukraine and imposing sanctions against Russia. The Senate approved the legislation by voice vote at the same time the House was passing a different version on a 399-19 vote. The votes were a show of solidarity with President Barack Obama, who had already announced sanctions against Russian President Vladimir Putin and others. The president spent several days rallying U.S. allies to stand firm against Putin's aggression. Lawmakers intended to get a final measure to the White House by day's end.

Their ev is punditry

Michael Cohen, 3/3/14, Don't listen to Obama's Ukraine critics: he's not 'losing' – and it's not his fight, www.theguardian.com/commentisfree/2014/mar/03/obama-ukraine-russia-critics-credibility

As in practically every international crisis, the pundit class seems able to view events solely through the prism of US actions, which best explains Edward Luce in the Financial Times writing that Obama needs to convince Putin “he will not be outfoxed”, or Scott Wilson at the Washington Post intimating that this is all a result of America pulling back from military adventurism. Shocking as it may seem, sometimes countries take actions based on how they view their interests, irrespective of who the US did or did not bomb. Missing from this “analysis” about how Obama should respond is why Obama should respond. After all, the US has few strategic interests in the former Soviet Union and little ability to affect Russian decision-making. Our interests lie in a stable Europe, and that’s why the US and its European allies created a containment structure that will ensure Russia’s territorial ambitions will remain quite limited. (It’s called Nato.) Even if the Russian military wasn’t a hollow shell of the once formidable Red Army, it’s not about to mess with a Nato country. The US concerns vis-à-vis Russia are the concerns that affect actual US interests. Concerns like nuclear non-proliferation, or containing the Syrian civil war, or stopping Iran’s nuclear ambitions. Those are all areas where Moscow has played an occasionally useful role. So while Obama may utilize political capital to ratify the Start treaty with Russia, he’s not going to extend it so save the Crimea. The territorial integrity of Ukraine is not nothing, but it’s hardly in the top tier of US policy concerns.

Ukraine spill-over to the domestic agenda is all speculation

Brian Hughes, 3/21/14, Obama struggles to contain fallout from Ukraine crisis, washingtonexaminer.com/obama-struggles-to-contain-fallout-from-ukraine-crisis/article/2546006

Obama dispatched Vice President Joe Biden to Eastern Europe, where he tried to reassure leaders the U.S. was committed to protecting its NATO allies. Putin’s actions could also embolden leaders in Syria, North Korea and Iran. Already on the defensive over an increasingly volatile Middle East, the European turmoil raises the very real prospect that Obama's domestic agenda could take a back seat to putting out fires on the global stage. So far, the president has tried to keep the attention on his domestic agenda, and has continued fundraising for Democrats ahead of November. Republican critics on Capitol Hill, though, say Obama neglected foreign policy and is now paying the price.

## Cyber

NSA surveillance authority key to prevent catastrophic cyber-attacks—reforms key to overall NSA role in cyber

Jack Goldsmith, Henry L. Shattuck Professor at Harvard Law School, 10/10/13, We Need an Invasive NSA, www.newrepublic.com/article/115002/invasive-nsa-will-protect-us-cyber-attacks

Ever since stories about the National Security Agency’s (NSA) electronic intelligence-gathering capabilities began tumbling out last June, The New York Times has published more than a dozen editorials excoriating the “national surveillance state.” It wants the NSA to end the “mass warehousing of everyone’s data” and the use of “back doors” to break encrypted communications. A major element of the Times’ critique is that the NSA’s domestic sweeps are not justified by the terrorist threat they aim to prevent.

At the end of August, in the midst of the Times’ assault on the NSA, the newspaper suffered what it described as a “malicious external attack” on its domain name registrar at the hands of the Syrian Electronic Army, a group of hackers who support Syrian President Bashar Al Assad. The paper’s website was down for several hours and, for some people, much longer. “In terms of the sophistication of the attack, this is a big deal,” said Marc Frons, the Times’ chief information officer. Ten months earlier, hackers stole the corporate passwords for every employee at the Times, accessed the computers of 53 employees, and breached the e-mail accounts of two reporters who cover China. “We brought in the FBI, and the FBI said this had all the hallmarks of hacking by the Chinese military,” Frons said at the time. He also acknowledged that the hackers were in the Times system on election night in 2012 and could have “wreaked havoc” on its coverage if they wanted.

Such cyber-intrusions threaten corporate America and the U.S. government every day. “Relentless assaults on America’s computer networks by China and other foreign governments, hackers and criminals have created an urgent need for safeguards to protect these vital systems,” the Times editorial page noted last year while supporting legislation encouraging the private sector to share cybersecurity information with the government. It cited General Keith Alexander, the director of the NSA, who had noted a 17-fold increase in cyber-intrusions on critical infrastructure from 2009 to 2011 and who described the losses in the United States from cyber-theft as “the greatest transfer of wealth in history.” If a “catastrophic cyber-attack occurs,” the Timesconcluded, “Americans will be justified in asking why their lawmakers ... failed to protect them.”

The Times editorial board is quite right about the seriousness of the cyber- threat and the federal government’s responsibility to redress it. What it does not appear to realize is the connection between the domestic NSA surveillance it detests and the governmental assistance with cybersecurity it cherishes. To keep our computer and telecommunication networks secure, the government will eventually need to monitor and collect intelligence on those networks using techniques similar to ones the Timesand many others find reprehensible when done for counterterrorism ends.

The fate of domestic surveillance is today being fought around the topic of whether it is needed to stop Al Qaeda from blowing things up. But the fight tomorrow, and the more important fight, will be about whether it is necessary to protect our ways of life embedded in computer networks.

Anyone anywhere with a connection to the Internet can engage in cyber-operations within the United States. Most truly harmful cyber-operations, however, require group effort and significant skill. The attacking group or nation must have clever hackers, significant computing power, and the sophisticated software—known as “malware”—that enables the monitoring, exfiltration, or destruction of information inside a computer. The supply of all of these resources has been growing fast for many years—in governmental labs devoted to developing these tools and on sprawling black markets on the Internet.

Telecommunication networks are the channels through which malware typically travels, often anonymized or encrypted, and buried in the billions of communications that traverse the globe each day. The targets are the communications networks themselves as well as the computers they connect—things like the Times’ servers, the computer systems that monitor nuclear plants, classified documents on computers in the Pentagon, the nasdaq exchange, your local bank, and your social-network providers.

To keep these computers and networks secure, the government needs powerful intelligence capabilities abroad so that it can learn about planned cyber-intrusions. It also needs to raise defenses at home. An important first step is to correct the market failures that plague cybersecurity. Through law or regulation, the government must improve incentives for individuals to use security software, for private firms to harden their defenses and share information with one another, and for Internet service providers to crack down on the botnets—networks of compromised zombie computers—that underlie many cyber-attacks. More, too, must be done to prevent insider threats like Edward Snowden’s, and to control the stealth introduction of vulnerabilities during the manufacture of computer components—vulnerabilities that can later be used as windows for cyber-attacks.

And yet that’s still not enough. The U.S. government can fully monitor air, space, and sea for potential attacks from abroad. But it has limited access to the channels of cyber-attack and cyber-theft, because they are owned by private telecommunication firms, and because Congress strictly limits government access to private communications. “I can’t defend the country until I’m into all the networks,” General Alexander reportedly told senior government officials a few months ago.

For Alexander, being in the network means having government computers scan the content and metadata of Internet communications in the United States and store some of these communications for extended periods. Such access, he thinks, will give the government a fighting chance to find the needle of known malware in the haystack of communications so that it can block or degrade the attack or exploitation. It will also allow it to discern patterns of malicious activity in the swarm of communications, even when it doesn’t possess the malware’s signature. And it will better enable the government to trace back an attack’s trajectory so that it can discover the identity and geographical origin of the threat.

Alexander’s domestic cybersecurity plans look like pumped-up versions of the NSA’s counterterrorism-related homeland surveillance that has sparked so much controversy in recent months. That is why so many people in Washington think that Alexander’s vision has “virtually no chance of moving forward,” as the Times recently reported. “Whatever trust was there is now gone,” a senior intelligence official told Times.

There are two reasons to think that these predictions are wrong and that the government, with extensive assistance from the NSA, will one day intimately monitor private networks.

The first is that the cybersecurity threat is more pervasive and severe than the terrorism threat and is somewhat easier to see. If the Times’ website goes down a few more times and for longer periods, and if the next penetration of its computer systems causes large intellectual property losses or a compromise in its reporting, even the editorial page would rethink the proper balance of privacy and security. The point generalizes: As cyber-theft and cyber-attacks continue to spread (and they will), and especially when they result in a catastrophic disaster (like a banking compromise that destroys market confidence, or a successful attack on an electrical grid), the public will demand government action to remedy the problem and will adjust its tolerance for intrusive government measures.

At that point, the nation’s willingness to adopt some version of Alexander’s vision will depend on the possibility of credible restraints on the NSA’s activities and credible ways for the public to monitor, debate, and approve what the NSA is doing over time.

Which leads to the second reason why skeptics about enhanced government involvement in the network might be wrong. The public mistrusts the NSA not just because of what it does, but also because of its extraordinary secrecy. To obtain the credibility it needs to secure permission from the American people to protect our networks, the NSA and the intelligence community must fundamentally recalibrate their attitude toward disclosure and scrutiny. There are signs that this is happening—and that, despite the undoubted damage he inflicted on our national security in other respects, we have Edward Snowden to thank.

## PC

#### Leadership matters

**Jacobs and King 10**, University of Minnesota, Nuffield College, (Lawrence and Desmond, “Varieties of Obamaism: Structure, Agency, and the Obama Presidency,” Perspectives on Politics (2010), 8: 793-802)

Yet if presidential personality and leadership style come up short as primary explanations for presidential success and failure, this does not render them irrelevant. There is no need to accept the false choice between volition and structure—between explanations that reduce politics to personality and those that focus only on system imperatives and contradictions. The most satisfying explanations lie at the intersection of agency and structure—what we describe as structured agency. Presidents have opportunities to lead, but not under the circumstances they choose or control. These circumstances both restrict the parameters of presidential impact and highlight the significance of presidential skill in accurately identifying and exploiting opportunities. Indeed, Obama himself talks about walking this tightrope—exercising “ruthless pragmatism” in seizing opportunities for reform while accepting the limits and seeking to “bridge that gap between the status quo and what we know we have to do for our future”.12

## 2nc link

This is not a generic foreign policy link – the plan’s fight over presidential authority escalates legal disputes

Alexander Ryland, United Kingdom Government Administration Aberdeenshire Council, Project Assistant, 7/9/2012, http://www.e-ir.info/2012/07/09/executive-legislative-conflict-over-the-war-powers-resolution/

The contradictions in congressional challenges to the president’s authority under the WPR show definite decline in power evidenced which enables the president to enact policy decisions without effective oversight from the legislature. While presidential grand strategy remains broadly similar through both case studies, Congress appear unable to maintain a consistent approach to foreign policy. Instead it is constrained by a combination of partisan politicking and other domestic pressures beyond the executive-legislative bargaining which the resolution seeks to encourage. Whether through campaign financing, authoring legislation, or bargaining over strike action, politicians can become embroiled in complex relationships with lobbyists and special interests undermining the effectiveness of the legislative agenda of Congress. Especially in election years, intra-governmental conflict can become heated. The relationship between the president and the opposition party in Congress created the inflammation surrounding the legality of the Libyan intervention and could have led to the end of US engagement if sufficient pressure were applied. Epistemic communities of ‘experts’ and practitioners seek to influence policy-makers in both branches of government to take certain courses of action identified with their particular professional interests and capabilities (Jacob and Page 2005, 108), often including officials in government agencies at both domestic and international level. Clear examples can be found during the preparations for the invasion of Iraq where CIA intelligence had a definitive influence on the administration’s decision to go to war (Pillar 2006). The notion of ‘iron triangles’ expresses this relationship between legislators, special interests and bureaucrats working to influence the policy process for mutually beneficial arrangements (Jordan 1981, 99-100); they are common across policy subsystems but their entrenchment in foreign policy especially facilitates the growth of presidential power and its development as a norm. The bargaining and negotiating described by the bureaucratic model is influenced to a great extent by domestic pressures on both Congress and the president, resulting in conflict and indecision as demonstrated clearly in the Libya case study, leading to a need for presidential leadership in decision-making. The WPR is intended to prevent such a situation and afford Congress a mechanism by which it can reign in the president and ensure that its position at the negotiating table is maintained. However, the relevance of the resolution is called into question when it fails to be implemented effectively. As the cases discussed show, executive-legislative conflict in foreign policy decision-making remains a power struggle, but the outcome is increasingly a foregone conclusion.

Obama initiating legislative NSA-reform push

Josh Gerstein, 3/24/14, Barack Obama seeks to end NSA phone sweep, dyn.politico.com/printstory.cfm?uuid=D972E73A-3A55-40AA-A1FC-2B6300925853

President Barack Obama is poised to endorse a proposal that would end the National Security Agency’s collection of a huge amount of data on U.S. phone calls to search for evidence of terrorist plots, swapping that system for one in which telephone companies retain the data, administration officials said late Monday. The new program would do away with the database the NSA currently uses to store information on five years’ worth of phone calls made to, from and within the U.S. and have the telecommunications firms store call data for 18 months in line with current federal regulations, said a person who was briefed on the plan and asked not to be named. Word of the administration proposal, first reported Monday evening by the New York Times, came a day before bipartisan leaders of the House Intelligence Committee were set to unveil legislation laying out a similar plan and a few days before the Friday deadline Obama set a couple of months ago for Attorney General Eric Holder and Director of National Intelligence James Clapper to deliver a proposal to get the spy agency out of the controversial business of bulk collection of U.S. phone data. The White House had no official comment on the report, but a senior official said the administration was on the verge of laying out a public plan to reconfigure the telephone metadata program. ”As the President made clear in his speech on these issues in January, he directed his administration to explore all options available for ending the government’s role in holding this metadata while still maintaining as many capabilities of the program as possible,” said the official, who also asked not to be named. “The President considered those options and in the coming days, after concluding ongoing consultations with Congress, including the Intelligence and Judiciary Committees, will put forward a sound approach to ensuring the government no longer collects or holds this data, but still ensures that the government has access to the information it needs to meet the national security needs his team has identified,” the Obama aide added. The official signaled that the new approach will require legislation — a hint that the requirement that telephone companies store the data for 18 months is likely to be strengthened. Currently, some carriers don’t store the data at all or do so in a manner that makes it hard for law enforcement to access quickly. For now, the administration will ask a federal surveillance court to extend the current program for another 90 days, the person familiar with the plan said. “Until Congress passes new authorizing legislation, the President has directed his administration to renew the current program,” the senior official said. The official noted that Obama recently requested and obtained a ruling from the Foreign Intelligence Surveillance Court that requires a court order before searching the data, except in emergencies. The new proposal would also require a judge’s sign-off in most instances. While the new approach would return to something closer to the traditional law-enforcement model involving subpoenas and warrants, one prominent critic of the current system said he was not satisfied with the legislation to be unveiled Tuesday by House Intelligence Committee Chairman Mike Rogers (R-Mich.) and ranking Democrat Dutch Ruppersberger of Maryland — a proposal which seems largely in sync with Obama’s anticipated reform proposals. “Congress must pass a straightforward bill to address NSA overreach,” Rep. James Sensenbrenner (R-Wis.) said in a statement Monday night. “The End Bulk Collection Act is a convoluted bill that accepts the administration’s deliberate misinterpretation of the law. It limits, but does not end, bulk collection. Provisions included in the draft fall well short of the safeguards in the USA FREEDOM Act and do not strike the proper balance between privacy and security. The End Bulk Collection Act will not have my support.” Another critic of the current program, Kevin Bankston of the New America Foundation,said Congress needs to firmly slam the door on NSA’s ability to gather information in bulk. “Obama proposal to end bulk phone data program treats symptom rather than disease. Must fix law to prevent any/all bulk data collection,” Bankston wrote on Twitter. The head of the federal Privacy and Civil Liberties Oversight Board, which recommended an end to the NSA’s program, said Monday night the administration seemed to be headed in the direction the group urged. “The Board previously met with Administration officials as they were considering which recommendations to make to the President. If the reports are correct, the approach would follow the recommendations of the majority of the Privacy and Civil Liberties Oversight Board that, in order to balance national security with privacy and civil liberties, the bulk collection program should be ended and, instead, the intelligence community should shift to making specific requests for records to the phone companies,” board chairman David Medine said. Holder said last week that the Justice Department and the NSA were on track to meet the Friday deadline and had been briefing White House officials in advance of the formal proposal. “We will meet the deadline that the president has set,” Holder said in response to a reporter’s question. “That review is ongoing. We’re in touch with the White House. I’ve been in touch with the president. … The communication is ongoing on this one.” Holder has been advocating an end to the government’s retention of the data since before Obama’s speech on the issue in January, a source familiar with the deliberations said. A federal judge based in Washington ruled in December that the current program violated the Constitution’s Fourth Amendment guarantee against unreasonable searches and seizures. The Obama administration appealed that decision, even as it embarked on efforts to overhaul the system. Later that month, a federal judge based in New York issued a ruling upholding the program’s constitutionality. In addition to complaints about the intrusion on privacy, the current NSA program has been plagued by claims that it has been largely ineffective in detecting terrorist plots. Officials have publicly identified only one criminal case in which the metadata was critical. That case involved no plot in the U.S., but the collection by immigrants in southern Califonia of several thousand dollars for the Somalia-based terror group Al Shabaab. Reports about the administration’s new plan emerged as Obama is in Europe, meeting with officials who have been pressing the U.S. to rein in its surveillance apparatus. However, foreign critics have been seeking more reforms and safeguards for NSA data-gathering internationally — a subject Obama addressed in his January speech but one that was not discussed by the officials who confirmed the plan to end the domestic metadata program.

## WP

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Executive war primacy key to nuclear deterrence

Hemesath 2k (Paul, J.D./M.S.F.S. Georgetown University Law Center, School of Foreign Service, 2001; B.A. University of California at Los Angeles, 1996, “Who's Got the Button? Nuclear War Powers Uncertainty in the Post-Cold War Era” August, 2000, 88 Geo. L.J. 2473)

Politically, nuclear weapons wield such powerful and unique symbolic effects n70 that **a decision regarding their offensive use**--outside the context of a declared war or defensive maneuver--may fall under the ambit of congressional control as an act tantamount to a declaration of war. n71 Such political consequences may place the nuclear decision beyond mere tactical strategy intended for the judgement of the Commander in Chief alone. Professor Louis Henkin believes that Congress has the authority to decide the essential character of a war, and specifically, whether the conflict should be escalated to a nuclear level or not. n72 President Lyndon Johnson admitted that the decision to go nuclear is a "political decision of the highest order." n73 That nuclear engagement connotes a political decision, as opposed to a mere choice of weaponry, may place the nuclear decision beyond the scope of military decisions normally reserved for the President alone.

Regardless, proponents of the Executive position insist that nuclear weapons [\*2484] are not constitutionally unique. n74 In support of their claim, nothing in the text of the Constitution indicates a special classification for particularly destructive weaponry, nor does the Constitution allow the Congress to override the President's choice of weapons. n75 Decisions regarding the type of weapons used in war are considered tactical--of a type supposed to be well within the scope of the Commander in Chief's power. n76 Furthermore, no congressional law or judicial decision has drawn an instructive distinction between nuclear and conventional weaponry. n77 Such a distinction would require artificial constructions distinguishing weapons systems that, despite differences of magnitude and technology, are basically designed to do the same thing.

However, the lack of textual references to nuclear weapons in the Constitution does not adequately resolve the question of nuclear war authority. Although nuclear weapons as weapons are indistinguishable in literal constitutional terms, their uniquely pernicious and lingering effects may nevertheless define their offensive use as a quintessential act of war and thus constitutionally place them within the sphere of congressional war power via the War Powers Clause. As critics have noted, **there currently exists no source of constitutional authority or judicial reasoning that would resolve this debate in favor of either side**. n78

The ultimate point gained from the comparison of these competing views is that the Constitution does not provide an easy answer as to whether a nuclear attack is inherently an act of war that should be subject to congressional approval. The issue is untested. The only atomic attacks in history have occurred within the confines of a declared war. n79 The presence of Cold War deterrence policies has since obscured the question, which is to say it eliminated the question, until now.

II. CHANGES IN THE BACKGROUND: FROM THE COLD WAR TO THE TERRORIST THREAT

The Cold War had profound influence on political culture in the United [\*2485] States, especially with regard to national security. Throughout this tense period, deterrence theory served as the keystone of stability in a nuclear house of cards. As a result, unusual if not extreme measures were utilized to maintain national security via mutual deterrence. n80 The fading of Cold War standbys--deterrence, mutual restraint, counter-force, rationality--tends to expose the dubious justifications by which the Executive has accreted its claim to nuclear war powers. In addition, the rise of international terrorism--a threat completely distinct from the rational and predictable dangers of the Cold War--further develops the logic of arguments questioning the Executive's exclusive claim to offensive nuclear war powers.

A. THE CHILLING EFFECTS OF THE COLD WAR

The tensions of the Cold War affected the distribution of nuclear power between the President and Congress in two ways. First, the Cold War spawned the age of **nuclear deterrence**, a stabilizing strategy that **requires** quick reaction times **and** overwhelming response**--functions naturally performed best through the centralized power of the President.** Second, the Cold War led to a general accretion of presidential war powers authority because of heightened tensions and a perception of vulnerability to post-World War II Soviet expansion.

Since the beginning of the Cold War, and **continuing to the present day, nuclear weapons have been utilized as a deterrent force.** The threat of nuclear attack was used to obstruct Soviet troop movements into Europe and, later, as a deterrent to Soviet nuclear first-use. n81 The actual use of nuclear weapons was prevented by Mutually Assured Destruction (MAD)--the theory that no rational actor would use its nuclear weapons offensively when the threat of retaliation and ensuing escalation would result in the destruction of both actor and target. n82

In order for MAD to function correctly, both sides must have the ability to retaliate. If an aggressor develops the ability to deliver a quick and decisive blow to the target's nuclear arsenal, effectively removing the ability to retaliate, it would have an incentive to strike first. n83 As a result, U.S. and Soviet militaries developed weapons systems to avert the perception of a vulnerability to first-strikes. The first and most obvious strategy was to employ weapons systems that were capable of immediate launch. Quick launch times assured that missiles would be airborne before enemy weapons could strike silos and command [\*2486] centers. n84 **To demonstrate the credibility of this "counter-threat," the Executive--the most responsive and agile of the three branches--was required to keep the triggers of an offensive strike at its fingertips.** n85

As a result of this instantaneous deterrence strategy, the question of whether the President had the power to launch a nuclear weapon during the Cold War was a moot, if not dangerous, question. Attack from Soviet ICBMs was an imminent threat to national security because missile-warning windows were only minutes deep. n86 In addition, total security required the option of a first-strike attack designed to launch nuclear missiles as a preemptive strike when war was deemed to be inevitable. n87 These strategies, unique to the Cold War, required quick reaction times best executed by the President. n88 Indeed, Edwin Firmage argues that executive power reached its zenith in response to the Soviet acquisition of first-strike capability. n89 But this expansion of presidential power was not necessarily an unwarranted one. The need to strike first or strike back required an immediate decision easily defined as a repelling action--an action that the Executive and Congress could agree does not require congressional approval. n90 Congressional hearings from the Cold War era seem to confirm that the legislature was well aware that the tensions of the Cold War required a concentration of nuclear power in the hands of the President. n91

In addition to aggrandizement gained from the functional realities of nuclear deterrence strategy, the presidency enjoyed a more general accretion of power as a result of the pressures and perceived dangers of the Cold War. Starting with the Korean War, when President Truman ordered troops abroad without congressional authorization, and continuing throughout the last half of the century, Presidents have claimed increased power based on the exigencies of the Cold [\*2487] War. n92 Congress, also convinced of the Cold War's volatility and eager to make up for past acts of isolationism, tended to acquiesce to the Executive's grab for war power. John Hart Ely describes the relationship as a "tacit deal" between the Congress and the presidency, consisting of congressional acquiescence in return for the right to complain if policies failed. n93

It is possible that the heightened tensions of the Cold War also tainted judicial treatment of executive war powers questions. Thomas Franck has observed that a judicial decision finding nuclear weapons unconstitutional during the Cold War would have constituted the functional equivalent of unilateral disarmament, thus leaving the United States open to Soviet attack. n94 Although the unconstitutionality of nuclear weapons is a dubious proposition for a litany of other reasons, Franck's observation demonstrates that the Cold War may have had a profoundly chilling effect on the judiciary's attitude towards policing the war powers during an era when U.S.-Soviet tensions were running high.

Fierce Cold War tensions thus dulled congressional and judicial concerns about executive aggrandizement because of the need for a perfectly responsive counter-threat in the form of the President. As a result, the constitutional question of whether the President had the power to launch a nuclear weapon was simply not a viable issue during the Cold War. n95

B. POST-COLD WAR THREATS

The end of the Cold War n96 has brought a multitude of geopolitical transformations that, to this day, alter the state of U.S. national security. Most relevant in the nuclear discussion is the fact that no power threatens the U.S. ability to retaliate massively in the same way that Soviet missiles threatened U.S. retaliatory capability during the Cold War. The Soviet Union is no longer considered a hair-triggered nuclear adversary due to its diminished economic capacity and dependence on the West for assistance. n97 Other major powers, although nuclearcapable, are considered to be either friends or so weak as not to constitute a [\*2488] serious threat. n98 Although China represents a worrisome variable, it is clear that its nuclear forces do not rise to a level sufficient to entertain thoughts of a disarming first-strike against the United States. n99 As a result, nuclear first-strike and quick-response capabilities may no longer be necessary to deter a rational, stable aggressor from attacking the United States--the threat of massive ex post retaliation from surviving nuclear silos will deter such actions.

However, despite the United States's apparent entry into a secure world of unipolar dominance, many believe that it is actually entering a period of extreme insecurity. n100 These commentators refer to unruly rogue governments, the growing problem of stateless terrorist groups, and the proliferation of weapons of mass destruction. n101 Such trends indicate that, although the United States is not in danger of being annihilated by Soviet missiles in the fashion imagined during the Cold War, it is now more likely to become subject to random acts of mass violence, such as attacks on embassies or bombings of domestic population centers. n102

Prevents nuclear war

Morgan 9 (Patrick, Director of Global Peace & Conflict Studies & Professor of Peace Research at UC Irvine, Complex Deterrence: Strategy in the Global Age, P. 9-11)

Among the great powers (the five permanent members of the United Nations Security Council), nuclear weapons are largely seen as a hedge against the emergence of great-power conflict in the future. The great-power relationships in the post-cold war era are characterized by "recessed general deterrence," or dissuasion, in which states do not expect immediate militarized conflict, but weapons are kept in the background as insurance given the inherent uncertainties of world politics. The end of the cold war witnessed substantial changes in the deterrence dynamics involving great powers, and, as a result, general deterrence and dissuasion became operational concepts. Although they do maintain large arsenals, neither the United States nor Russia is presumed to hold automatic launch-on-warning attack plans anymore, although some of the elements of the previous era are continuing. In addition, they have reduced the number of weapons they possess, although the numbers still exceed a minimum nuclear deterrence posture. The three other old nuclear powers - China, the United Kingdom, and France - also have been maintaining their smaller arsenals, but this might change as Chinese nuclear force modernization plans come to fruition in the coming decades. The logic behind the maintenance of nuclear capabilities is that the great powers want to be prepared in case their relations deteriorate in the future. Nuclear capability can also be construed as an assurance against the expansionist pathologies of great powers as described in perspectives such as offensive realism. Moreover, uncertainties in Russia and China give pause to western nuclear powers, while, for Moscow, the fear of American influence in its former spheres in Eastern Europe and Central Asia is the cardinal source of anxiety. For the rising power, China, nuclear weapons offer a major insurance against direct assault on its strategic sphere, allowing it to rise peacefully. Nuclear weapons also offer a limited but crucial deterrent against potential conflict escalation between the United states and China involving Taiwan. The great-power deterrence calculations are thus based on "recessed general deterrence" as well as "existential deterrence": no immediate expectations of war exist among them. However, as Patrick Morgan states, "if serious conflicts emerge again, then deterrence will be in vogue-if not, at least for a lengthy period, then deterrence will operate offstage, held in reserve, and will not be the cornerstone of security management for the system." this does not mean that the relations in the US-Russia and US-China dyads would remain the same in the long run. Power transition has invariably been turbulent in the international system, and herein lies the role that nuclear weapons may play in deterring a transition war. US-Russia relations could deteriorate, and deterrence could become more relevant if tensions build up over the establishment of missile defense in Eastern Europe and over Russian efforts to repudiate major arms-control agreements in its effort to regain its lost superpower status. As discussed in Morgan and Paul's chapter in this volume, nuclear deterrence in this context has offered the major powers greater maneuverability. It has allowed the major power states to sustain the credentials as system managers and has prevented the emergence of active security dilemmas among them that can be caused by conventional arms races and technological breakthroughs. Absent the fear of existential wars, the potentially rival states have engaged in greater economic interactions. The increasing trade relations between the United States and China and China and India, an emerging power, suggest that general nuclear deterrence may offer economic spin-off benefits. To some extent, the stability in relations among the great powers, with no war in sight between them, points to the pacifying role that nuclear weapons may be playing, although other causes are present as well. In that sense, nuclear weapons may act as crucial factors in preventing a power-transition war akin to those that the world experienced in the nineteenth and twentieth centuries. For Russia, the superpower that declined, nuclear deterrence offers an opportunity not to be excessively alarmed by the expansion of the North Atlantic Treaty Organization.

## pmcs

## 2nc link/yes pmcs

Best studies prove the link

Kruck ‘14

Andreas, Geschwister Scholl Institute for Political Science, University of Munich, “Theorising the use of private military and security companies: a synthetic perspective,” Journal of International Relations and Development, 2014, 17, (112–141)

The political-instrumentalist model is supported by **numerous studies** that find indications that the use of PMSCs is indeed harmful for the transparency, accountability and parliamentary control of military operations and that governments are at the very least aware of this (Avant 2005; Deitelhoff 2010; Dunigan 2011: 100). The use of PMSCs allowed the US government to **circumvent troop ceilings ordered** **by** the US **Congress** in the Balkans conflict and again in its Plan Colombia (Deitelhoff and Geis 2010). The governmentdominated practices in the negotiation and oversight of PMSCs’ contracts in Iraq have also demonstrated that outsourcing makes **parliamentary oversight** over the defence budget and, ultimately, the use of force more difficult (Deitelhoff 2010). As Avant and Sigelman (2010) have empirically shown, parliamentary organs and the broader public have less information on PMSCs than on public armed forces, and access to this information is more difficult. Although the broader public may be just as sensitive to the deaths of private forces as it is to the military personnel’s deaths, it is simply less likely to know about them (ibid.: 230). PMSC casualties are not listed in official casualty statistics. Thus, public debates about more than 1,000 PSMC casualties in Iraq **have** largely **been absent**. Governments’ reluctance to increase monitoring and clarify liabilities of PMSCs via stricter regulation also correspond nicely to the political-instrumentalist model’s main arguments (Deitelhoff 2010: 198).

Empirics—the executive uses PMCs to circumvent explicit restrictions and continue the mission

Gaston ‘8

EL, JD, Harvard Law, “Mercenarism 2.0? The Rise of the Modern Private Security Industry and Its Implications for International Humanitarian Law Enforcement,” Harvard International Law Journal VOLUME 49, NUMBER 1, WINTER 2008

Even for states that **do have advanced military capabilities**, the availability of advanced capabilities in the private sector that can **appear** **to operate independently** of the state may enable it to get around certain domestic political constraints. Hiring PMSCs as force multipliers allows states to purchase additional manpower and capabilities without incurring political costs or having to raise support for citizen participation.76 PMSCs often do not attract the same media attention and public scrutiny as enlisted soldiers or other state actors would. If a PMSC is killed in an operation overseas it does not garner the same headlines as if an enlisted soldier were killed. Deploying PMSCs**, even large and sustained units of PMSCs**, to train, assist, or advise foreign governments may not raise the same **congressional or popular political checks** that deploying an equivalent number of military or civilian officials would. For example, throughout the 1990s, the Clinton Adminis- tration increasingly outsourced U.S. involvement in Colombian anti-narcotic campaigns to PMSCs in order **to avoid congressional troop ceilings** and other domestic constraints on U.S. involvement.77 Moreover, because of their independent capabilities, PMSCs can provide extra manpower and resources without requiring the bureaucratic overhead or decisionmaking processes that might typically accompany such uses of force by democratic states. The thousands of private contractors in Iraq act as an important force multiplier for U.S. operations not only because they provide more manpower without the political costs of sending more troops but also because the U.S. government can manage these additional capabilities with fewer bureaucratic resources or institutional hurdles.

The link is empirical and accountability is impossible

Gul ‘6

Saad, Law Clerk to The Hon. John C. Martin, Chief Judge, North Carolina Court of Appeals. JD Wake Forest University School of Law, BA Davidson College., “THE SECRETARY WILL DENY ALL KNOWLEDGE OF YOUR ACTIONS: THE USE OF PRIVATE MILITARY CONTRACTORS AND THE IMPLICATIONS FOR STATE AND POLITICAL ACCOUNTABILITY,” 10 Lewis & Clark L. Rev. 287 2006

The constitutional concerns of privatization are hardly unique to the military arena, 12 but are of particular gravity since they pertain to the extremely sensitive area113 of defense and foreign relations. Since mercenaries can be hired through informal arrangements-and be paid "**off the books**" 114 in the form of concessions or other contracts, the privatization of war enables governments to **evade responsibility** for their actions by placing them behind a **corporate veil**.' 15 The use of innovative financial procedures to utilize PMC services in furtherance of U.S. foreign policy is **particularly ominous**, because Congress has often **relied on its power of the purse** to define the permissible parameters of the nation's policy, e.g. in Haiti, Somalia, the Balkans, and Rwanda." 6 Indeed, Congressional use of the appropriations power is one of the **last meaningful constraints** **on** virtually unbridled Presidential authority as Commander in Chief **in the arena of military affairs**-the utilization of Financial **smoke and mirrors** to evade Congress effectively eviscerates this power. The use of contractors to **escape legal constraints** **is** **hardly a recent innovation**

. During the Vietnam era, a Pentagon official described one contractor, Vinnell, as "our own little army in Vietnam," explaining that "we used them to do things we either didn't have the manpower to do ourselves, or because of legal problems."'1 8 Worse still, the ostensibly private status of PMCs means that they can be used to skirt Congressional mandates; the Pentagon used them in the Balkans to stage an end run around the Congressionally imposed cap on U.S. troop deployments in the region. 19 Similarly, **the U**nited **S**tates **has been able to evade statutory prohibitions on offering military assistance to certain nations by routing such aid through PMCs**.120 Congressional oversight becomes **an even more distant prospect** when PMC contracts are routed through a variety of channels, including **the Commerce, Interior, and State Departments**.' 21 For instance, many of CACI's contractors at Abu Ghraib were funded through a Department of the Interior Contract for Information Technology Services.' 22 With such **bureaucratic sleights of hand**, meaningful oversight is impossible. Even if technically legal, such actions serve to significantly dilute Congressional oversight of U.S. military activity around the globe.123 One prominent expert in the area of private security contracting, P.W. Singer, has gone so far as to argue that the current wave of combat privatization is driven by this desire for "**plausible deniability**" rather than any cost savings. 124 Indeed, the entire notion that outsourcing of governmental and military functions saves money is hotly disputed. 125 On the other hand, there is **little doubt** that private corporations are **far better able to evade unwelcome Congressional** **or public scrutiny than** the **uniformed services**. 126