# \*\*\*2ac\*\*\*

# Case

## War Powers DA (Generic)

2. The hot battlefield standard’s already in use it’s just a matter of codifying that standard for future conflicts

Robert Chesney, U-Texas School of Law Professor, 5/24/13, Does the Armed-Conflict Model Matter in Practice Anymore?, www.lawfareblog.com/2013/05/does-the-armed-conflict-model-matter-in-practice-anymore/

The post-9/11 claim that we are in an “armed conflict” with al Qaeda and its associated forces has long since ceased to matter in strict legal terms, other than in connection with the lingering detention of the legacy populations at GTMO and (for non-Afghan detainees) at Parwan. We have not taken new detainees into long-term military custody in many years, and there is no prospect that we will do so for years to come. **What we do still do is use lethal force, but on close inspection, our uses of force outside of Afghanistan** arguably **do not depend on the existence of an armed conflict after all**. As the Brennan speeches underscored, the government as a matter of policy has adopted constraints that limit the use of force outside the “hot battlefield” to scenarios involving an “imminent threat” to life in circumstances where capture is not feasible (albeit subject to an understanding of that phrase that would better be described as a “continuous threat” standard). This is far more restrictive than the status-based targeting model associated with armed conflict. Indeed, it is at least as restrictive as the boundaries of the self-defense model developed during the Reagan and Clinton years, discussed earlier.

To be sure, that model was acted upon only rarely in the pre-9/11 era. There were many reasons for this, but a major one was sheer lack of practical capacity: we had little relevant intelligence when it came to tracking individual terrorist threats, and even when we obtained actionable intelligence our capacity to strike normally was limited by the multi-hour process associated with cruise missiles.

Today things are quite different. The capacity for collecting the requisite intelligence has expanded by leaps and bounds thanks to sweeping institutional and technological changes over the past dozen years, and in the same period we have acquired an extraordinary capacity to strike quickly and precisely thanks to armed drones. In short, the practical constraints on using force in self-defense have been removed, and if we find ourselves once more without a claim of armed conflict to support uses of force, we may well discover as a result that the pre-9/11 legal model is much less constraining than commonly assumed. Indeed, one might conclude that there is nothing currently done outside of Afghanistan by way of targeting under the color of the law of armed conflict that could not be done under color of the pre-9/11 self-defense model. Combined with the abandonment of detention as an option, in fact, it makes no sense to talk of a return to the pre-9/11 framework; we already are there in practice.

Yesterday’s speech reinforces my conclusion, as it clarifies both that the long-term detention option is defunct and that **we are using force within boundaries that will be no different postwar thanks to the flexibility of the pre-9/11 self-defense model**. Put another way, it seems to me ever clearer that the current shadow war approach to counterterrorism doesn’t really require an armed-conflict predicate–or an AUMF, for that matter. If that is correct, it will please some and horrify others. At any rate, I’d appreciate hearing from readers as to whether they think this is in fact correct.

7) A lack of geographic restrictions now leads to worse congressional restrictions in the future – also no link uniqueness

Barron and Lederman ’08 (David J. Barron, Professor of Law @ Harvard Law School, and Martin S. Lederman, Visiting Professor of Law, Georgetown University Law Center, “THE COMMANDER IN CHIEF AT THE LOWEST EBB — FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING,” *Harvard Law Review*, Vol.121: 689)

That there is a baseline of regulation in place concerning the war on terrorism, moreover, cannot be denied. The reason preexisting statutory limits figure so prominently in the current conflict is primarily that a central component of the war against terrorism is, by its nature, the collection of intelligence. Although the conflict is being fought in part by traditional armed forces, on a traditional “battlefield” (such as against al Qaeda and the Taliban in certain regions of Afghanistan), the Executive has identified its principal goal in this conflict not as defeating the enemy in battle, but as preventing the enemy from “fighting” in the first instance. Al Qaeda is a largely hidden enemy — often secreted in civilian populations — and can do great damage very suddenly through the use of terrorism against civilian populations. Moreover, because al Qaeda is not a nation state, it has no population to protect, and no territory or homeland — or armed forces — to defend. Ordinary forms of deterrence, then, are arguably less effective than in a traditional war. Therefore, in the war on terrorism, the chief military way to prevent attacks — to win the war in any effective sense — is to interdict terrorist operations, or so the Executive insists.75 And that can be done, the Administration claims, only by acquiring intelligence from within al Qaeda.76 It follows that much of the primary action or “engagement” with the enemy is more likely to occur in interrogation rooms and detention facilities, and across wires, and in vast computer reservoirs of stored data, than in bunkers and on traditional battlefields.

As it happens, however, in recent decades — but well before the war on terrorism began — both intelligence collection and the treatment and interrogation of detained persons have become subject to a **thicket of statutory regulation**, through laws enacted to implement human rights treaties and the laws of war and to respond to the public’s outrage at the abuse of national security powers exposed in the aftermath of Watergate. For that reason, and notwithstanding all the talk of congressional acquiescence to executive discretion when it comes to national security matters, executive actions central to the current military conflict are in fact s**ubject to a substantial body of legislative and treaty-based regulation.**

In addition, in this conflict the battlefield “lacks a precise geographic location and arguably includes the United States.”77 For this reason, too, the freedom that Congress usually has been willing to afford the President in waging war against the enemy is much less likely to result in the President’s being able to operate without concerning himself with statutorily imposed constraints. Matters that arguably concern “battlefield” operations are too likely to overlap with matters that **Congress has long considered to be within its natural purview** as the branch of government chiefly responsible for regulating the nation’s domestic affairs — such as protecting domestic communications from surveillance, and ensuring that residents of the United States are not detained arbitrarily.

4. No slippery slope – if things get out of hand the executive can reassert its power in critical areas

Barron ‘8 David, Professor of Law, Harvard Law School, and Martin Lederman, Visiting Professor of Law, Georgetown University Law Center, THE COMMANDER IN CHIEF AT THE LOWEST EBB -- A CONSTITUTIONAL HISTORY, 121 Harv. L. Rev. 941

But that dramatic deviation did not come from nowhere. Rarely does our constitutional framework admit of such sudden creations. Instead, the new claims have drawn upon those elements in prior presidential practice most favorable to them. That does not mean our constitutional tradition is foreordained to develop so as to embrace unchecked executive authority over the conduct of military campaigns. At the same time, **it would be wrong to assume**, as some have suggested, that **the emergence of such claims will be necessarily self-defeating**, inevitably **inspiring a popular and legislative reaction that will leave the presidency especially weakened**. In light of the unique public fears that terrorism engenders, the more substantial concern is an opposite one. It is entirely possible that the emergence of these claims of preclusive power will subtly but increasingly influence future Executives to eschew the harder work of accepting legislative constraints as legitimate and actively working to make them tolerable by building public support for modifications. The temptation to argue that the President has an obligation to protect the prerogatives of the office asserted by his or her predecessors will be great. **Congress's capacity to effectively check such defiance will be comparatively weak. After all, the President can veto any effort to legislatively respond to defiant actions,** **and impeachment is neither an easy nor an attractive remedy.**

## at: mueller

He has no data and only addresses attacks in the US

Jessica Stern 6, Lecturer in Public Policy at Harvard's John F. Kennedy School of Government, “Are We Safe Yet”, September 7, <http://www.foreignaffairs.com/discussions/roundtables/are-we-safe-yet>

I have four main problems with his argument, however. First, in evaluating the terrorist threat, we need to be concerned about not just the strikes that terrorists have managed to carry out, but also those they might be preparing or plotting. As Mueller suggests, we should indeed be skeptical consumers of the government's claims regarding sleeper cells and thwarted plots. But his claim that there are no or almost no terrorists within the United States is based on no sounder informational basis that the opposite claims of government officials.

Second, we need to be concerned about terrorist strikes around the globe, not just in the United States -- and the picture there is not reassuring. The most accurate and up-to-date figures for international terrorist incidents make it clear that such attacks have risen every year since 2001, and have increased sharply in the three years since the United States invaded Iraq. The most recent State Department report on the subject includes attacks in Iraq, which previous reports had largely excluded and which inflates the numbers somewhat. But even leaving Iraq out of the picture, it would be hard to defend the view that terrorism has been vanquished. And data collected by the private organization MIPT show a similar upward trend.

# Off

## 2ac Must Prohibit

“Restrictions” are on time, place, and manner – this includes geography

Lobel, professor of law at the University of Pittsburgh, 2008

(Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf)

Throughout American history, Congress has placed restrictions on the President’s power as Commander in Chief to conduct warfare. On numerous occasions, **Congress has authorized the President to conduct warfare but placed significant restrictions on the time**, **place and manner of warfare**. Congress has regulated the tactics the President could employ, the armed forces he could deploy, the geographical area in which those forces could be utilized, and the time period and specific purposes for which the President was authorized to use force. Its regulations have both swept broadly and set forth detailed instructions and procedures for the President to follow. This historical practice is consistent with the Constitution’s text and Framers’ intent, which made clear that the President was not to have the broad powers of the British King, but was subject to the control and oversight of Congress in the conduct of warfare.

“On” means there’s no limits disad

Dictionary.com, http://dictionary.reference.com/browse/on

On

preposition

1.so as to be or remain supported by or suspended from: Put your package down on the table; Hang your coat on the hook.

2.so as to be attached to or unified with: Hang the picture on the wall. Paste the label on the package.

## 2AC ASPEC

## 2ac Self Restraint

6) Congressional legitimacy’s key to allied coop

Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11/2009, Targeted Killing in U.S. Counterterrorism Strategy and Law, http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

To all of this, the Obama Administration might ask a resounding “So what?” These human rights and other issues might exist in some hypothetical counterterrorism campaign far in the future if some administration were prepared to sign on to readings of international law the United States has always rejected. But for now, in the fight against al Qaeda, we have the AUMF, and we don’t accede to the more extravagant arguments of the international human rights community. The result is that targeted killings are governed by IHL. We are only using them when the conditions of self-defense have all been met. And those facts also conveniently get us around the assassination ban. Perhaps someone might raise some legal difficulty over operating in parts of Pakistan and over targeting parties not clearly related to al Qaeda. But practically, it all seems like the same “armed conflict.” So whatever the problems that might exist legally tomorrow, we do not have a legal difficulty today.

That even the Bush Administration always treated its targeted killings as the targeting of combatants covered by the AUMF in a war covered by IHL says something about the pressures the American legal structure faces from actors in the international legal community. **Those pressures are unlikely to abate**. For the current American view of its authority to conduct targeted killings, as described above, is barely more palatable to key elements of the international community than the one I advocate. What’s more, seemingly innocuous changes in and acquiescence to various legal regimes and rules could end up undermining the American legal rationale for targeted killings. The United States, to cite only one example, would like to have a more productive engagement with the International Criminal Court; this would put a considerable premium on the definition of the crime of “aggression” in that tribunal.

Some of the long term international legal pressure turns on a fundamental difference in understanding concerning how international law works—a difference that sometimes has a strong effect on interpretive outcome. In the long-held American view, international law classically binds sovereign states through their consent, either contractually through explicit treaties or implicitly through their assent to gradually evolving customary law. By contrast, those seeking to constrain states or alter their behavior beyond their consent have an incentive to expand the canon of what is implicitly agreed to by states, and generally binding on all of them, in the form of this body of customary international law.95 Since custom is not limited to the explicit terms of a ratified treaty, it is open to expansive restatement, interpretation, and invention by a wide variety of actors, both governmental and non-governmental. Classically, customary law has been evidenced principally by the actual behavior of states—functioning to ensure that international law does not over time become a purely paper enterprise with terms departing further and further from what states actually do. What is not prohibited to states, however, is generally permissible for them. So on this view, the question of targeted killing is not whether it is affirmatively allowed, but instead whether some treaty provision, or some genuinely accepted customary rule, prohibits it.

These traditional underpinnings of international law are, however, contested in the contemporary world as the “ownership” of international law—who sets its terms, interprets its rules, determines its content and meaning—is no longer entirely in the hands of sovereign states. Other actors—international advocacy organizations, international tribunals, international organizations and their functionaries, professors and academics, middle-weight states that see international law as a means to constrain more powerful sovereign states—play a significant role in setting the terms of the meaning and interpretation of international law. And while it’s easy now for the American administration to pretend these currents don’t exist, they have a way of seeping in as real constraints on American practice.

**The stakes are higher than American policymakers appear to realize**—as even a cursory look back over the past few years should make plain. At the most overt level, there is the possibility of prosecution abroad based on a consensus view of international law that the United States rejects. No one who has watched the European eagerness to initiate criminal and civil proceedings against Israeli and American officials in ever-proliferating judicial forums can be entirely sanguine about a giant gulf between American and international understanding of a practice that the international law community regards as murder.96 The more aggressively the United States uses this instrument, the more glaring the gulf will become—until, in some jurisdiction, someone decides to assert the consensus view as operative law. **Absent** some **aggressive effort to defend the American position**, **that magistrate** or prosecutor **will have the overwhelming weight of international legal opinion behind him**.

But the problem for the United States is not limited to the possibility of criminal proceedings abroad. American courts themselves are far from immune to the influence of soft law development. Consider only the manner in which American detention policy has been affected by parallel currents of international law opinion imported into American law through Supreme Court opinions. Only seven years ago, an American administration took a “so what” attitude toward international law ferment over detention that was rather similar to the current consensus on targeted killings. International legal scholars, NGOs, international organizations, and most countries took a far more restrictive view of the detention authority residing in IHL—specifically with respect to the protections due to unlawful enemy combatants—than did the United States, which had quietly preserved but not fought aggressively for a different approach over the preceding decades. The Supreme Court, however, has now gone a considerable distance to bridge the gulf by insisting that at least a portion of the Geneva Conventions covers all detainees. Whatever one thinks of that judgment, it is a striking example of the capacity to impact American law of the sort of international legal developments we are now seeing with respect to targeted killing.

More broadly, there are hidden but important costs when the United States is perceived by the rest of the world to be acting illegally. For one thing, it limits the willingness and capacity of other countries to assist American efforts. Detention here again offers a striking example; virtually no other country has assisted in American detention operations since September 11 in large part because of concerns over its legality. The more heavily and aggressively the United States banks on a policy that a strong consensus regards as per se criminal, the more tension it can expect in efforts to garner other countries’ and organizations’ cooperation in counterterrorism efforts. **Absent a strong effort to establish the legitimacy of current American practice, this too, over time, will push the U**nited **S**tates **away** from it.

The Obama foreign policy team may assume that the world’s goodwill toward the new administration means acceptance over time of these actions. That is surely mistaken. The admirable, if mistaken, views of international law scholars and the international law community on how human rights law should apply universally did not develop because Obama’s predecessor was named Bush—and they won’t melt in the face of affection for a popular new president. Over the long run, if the Obama Administration wants to continue to fight using more discriminating, precisely-targeted weapons instead of fullscale combat, it’s going to have to confront this problem while it still has intellectual and legal maneuvering space.

Legitimate Concerns

The concerns that underlie all of this international law ferment—chiefly, mistaken targeting decisions and excessive collateral damage—are real and substantial. A wholly justified worry about targeted killing, particularly as offered here, is that it is a defense of the practice without offering anything in the way of standards for its effective regulation. **If Congress** and the administration **wish to maintain and defend the legitimacy of this category of violence** and to demonstrate that it is not unlimited or unregulated and exists within bounds, **the question of visible domestic standards requires attention**. Indeed, the reach to situate this activity under the law of IHL armed conflict is, in its substance, a reach to standards of proportionality, discrimination in targeting, and minimizing collateral damage.

## 2ac Budget

\*\*1) Dem infighting kills capital

Justin Sink, The Hill, 9/17/13, White House asks: What rift with left?, thehill.com/homenews/administration/322597-what-rift-with-left-asks-carney

Obama’s friction with the left has come at a **crucial and dangerous period for the White House**. Critics have suggested with increasing volume that the president, mired in a second-term slump, may be losing the support of the progressive base that has underpinned his electoral success.

They say the president’s inability to win over his allies in Congress on arguably the biggest foreign policy and economic decisions of his second term illustrate either that Obama is a lame duck, or that his third-way neoliberalism has fallen out of vogue with the young progressives who now dominate the Democratic Party.

Last week, the AFL-CIO adopted a resolution harshly critical of the way the president was implementing Obama-Care. Earlier this summer, top Democrats openly questioned why the president had doubled down on surveillance programs begun during the George W. Bush administration. Even external events, like last week’s Democratic primary victory for progressive Bill de Blasio over establishment candidates in the New York mayoral race, have been cited as evidence of shifting sands.

2) Zero risk of a budget resolution

Stan Collendar, Journalist, 9/16/13, This Year's Budget Fight Isn't About The Budget, http://ourfuture.org/20130916/this-years-budget-fight-isnt-about-the-budget

There are many reasons why the budget fight that will take pace over the next few weeks and months will be more difficult than any of the close-to-debacles that have occurred in recent years.

The reasons include John Boehner (R-OH), who was already the weakest and least effective House speaker in modern times, being even weaker; a president with what at best is tepid support from his own party in Congress; an increasingly frustrated tea party wing of the GOP that no longer sees procedural compromises as satisfying; increasingly defiant House Democrats, who see less and less value in supplying votes to enact must-pass legislation when the Republican majority is unable to do it; and a seemingly hopeless split in the House GOP that makes further spending reductions, standing pat at current levels or spending increases impossible.

Add to this "crisis fatigue." So many actual or man-made economic and financial disasters have occurred in recent years that the kinds of things that used to scare Congress and the White House into compromising -- like possible federal defaults and government shutdowns -- no longer motivate them to act.

But none of these admittedly depressing factors are what makes this year's budget cliffhanger so difficult. This year the biggest complication is that the budget fight isn't really about the budget: It's about ObamaCare, and that makes it hard to see what kind of arrangement will garner enough votes to avoid the kind of shutdown and debt ceiling disasters that have been only narrowly averted the past few years.

It's one thing if the debate is just about coming up with a spending cap or deficit limit. If, for example, one side wants spending at $20 and the other wants $10, there should be some number between those two that eventually will make a deal possible.

But what happens when, like now, the budget is the legislative vehicle but the real debate is over something else entirely? What that happens, **there is no number that will satisfy everyone** in the debate and the budget process -- which is designed to compromise numbers rather than policy -- becomes an incredibly in effective way to negotiate.

That's when all of the other factors I noted above kick in. If the budget process can't be used to settle the debate, an ad hoc negotiation between the leaders is needed. But in the current political environment it's not at all clear who has the authority to negotiate let alone who has the ability to convince his or her colleagues that a deal deserves to be supported. And that's if a deal of some kind is even possible.

3) Whatever capital the plan costs Obama, its not relevant to the fiscal fights

Ed Kilgore, Washington Monthly, 9/5/13, Obama's Political Capital, www.washingtonmonthly.com/political-animal-a/2013\_09/obamas\_political\_capital046735.php#

An even hoarier meme than the no-win-war complaint is naturally emerging in Washington as everyone recalibrates his or her assumptions about how the year will end: Obama’s limited “political capital” that he might have used on the fiscal front will now be “spread thin” or “stretched to the breaking point” by the need to make a case for military action against Syria. Politico’s Brown and Sherman give it a full airing today:

President Barack Obama faced a heavy lift in Congress this fall when his agenda included only budget issues and immigration reform.

Now with Syria in the mix, the president appears ready to spend a lot of the political capital that he would have kept in reserve for his domestic priorities.

A resolution authorizing the use of force in Syria won’t make it through the House or the Senate without significant cajoling from the White House. That means Obama, who struggles to get Congress to follow his lead on almost everything, could burn his limited leverage convincing Democrats and Republicans to vote for an unpopular military operation that even the president says he could carry out with or without their approval.

Now this may be true with respect to congressional Democrats if Obama ultimately needs them to swallow hard and accept some fiscal deal to avoid a government shutdown or debt default. **But seriously,** what sort of “political capital” does the president have with congressional Republicans? They committed to a policy of total obstruction from the day he became president and picked up right where they had left off the day he was re-elected. Obama’s only options in dealing with the GOP are to offer them cover for compromise when he must and hand them an anvil to speed their self-destruction when he can. But he has no “political capital” to spend.

4) If a deal is reached, its because of necessity not capital

Ruth Marcus, RCP, 9/20/13, On Debt Ceiling, a Different Feel, www.realclearpolitics.com/articles/2013/09/20/on\_debt\_ceiling\_a\_different\_feel\_120005.html

But leaving the government unable to borrow enough money to pay the debts it has already incurred is a different matter entirely. Breaching the debt ceiling evokes words like catastrophic and unthinkable, **which is why it has never happened**.

And why the notion that it might is so surprising. Astonishing, actually. Washington is used to government by crisis and deadline. Our creaky system is capable of rousing itself only when the train is bearing down the tracks.

So my usual way of analyzing these moments is to reason backward: The debt ceiling must be raised.

Therefore it will be. The situation will seem to be at an unbreakable stalemate until, suddenly, a solution appears. Everyone will breathe a sigh of relief -- until the inevitable next act in our political psychodrama. Panic, solve, repeat.

\*\*5) The market has already freaked out

Brett Logiurato, Business Insider, 9/17/13, It's Time To Freak Out About The Debt Ceiling And A Government Shutdown Again, www.businessinsider.com/debt-ceiling-deadline-obama-boehner-negotiate-jack-lew-2013-9

There is perhaps less than a month to go before Congress needs to raise the nation's debt ceiling. And with no clear strategy going forward, the freak out has begun. Congressional leaders and members of the Obama administration are throwing out heated, partisan-based tough talk in both directions. Congress has to deal with both budget issues of averting a government shutdown by Sept. 30 and hiking the nation's borrowing limit by mid-October, and both don't appear to be close to resolution. At the heart of the fight are Republican demands to "defund" and delay the Affordable Care Act. According to Politico, about 30 House Republicans have signaled that they won't vote for a bill that funds the government if it includes funding for Obamacare. Republicans' strategy revolves around leadership convincing the rank-and-file members that the debt ceiling is a fight that earns them more leverage than one over government funding. One prospect, according to Politico, is a vote soon on the debt ceiling — so leadership can show the conservative caucus that it is "serious" about using the debt ceiling for leverage on Obamacare. Right now, rank-and-file members are skeptical that leadership is serious. And they think if they give in on government funding, leadership will also cave on the debt ceiling. The House bill to hike the debt ceiling would include "goodies" — construction of the Keystone XL pipeline, entitlement reform and principles for tax reform, to name a few. The problem: There is no chance that kind of bill passes the Senate, and no chance that President Barack Obama would sign it into law. Realistically, that kind of bill doesn't get us anywhere closer to a debt-ceiling hike. But it shift the onus away from House Speaker John Boehner and other House GOP leaders, and put it on Senate Majority Leader Harry Reid and Obama. And it would figure to maximize Republicans' leverage on other cuts. Meanwhile, the Obama administration has spent the past few days stepping up its warnings about the debt ceiling, and repeating the line that Obama will not negotiate over the debt ceiling. On Sunday, Gene Sperling, the director of the National Economic Council at the White House, said that businesses saw a consumer-confidence hit from the 2011 debt ceiling fight that was comparable to disastrous events like "Pearl Harbor or 9/11. On Monday, Obama quickly pivoted from remarks on the morning's Navy Yard massacre to slam the GOP over the possibility of "self-inflicted wounds" on the continuing-resolution bill and debt ceiling debate. And on Tuesday, Treasury Secretary Jack Lew railed against Republicans during a speech before The Economic Club in Washington. "We cannot afford for Congress to gamble with the full faith and credit of the United States of America. At the same time, we should never be put in a position where we have to pick which commitments our nation should meet," Lew said. "How can the United States choose whether to send Social Security checks to seniors or pay benefits to our veterans? How can the United States choose whether to provide children with food assistance or meet our obligations to Medicare providers?" In a research note Tuesday morning, Potomac Research Group's Greg Valliere put the odds of a Treasury debt default at just 5%. But he put the odds of a lesser "fiasco" — a situation in which the Treasury could pay some but not all government obligations — at 55%. "The key for us is cutting through the nasty background noise and determining whether the markets have to worry about a genuine budget crisis," Valliere wrote. "We think the answer is yes."

\*\*6) The prior Syria debate was sufficient to deplete Obama’s capital

Jake Tapper, CNN, 9/12/13, Has Obama paid political price for Syria?, thelead.blogs.cnn.com/2013/09/12/has-obama-paid-political-price-for-syria/

Has Obama paid political price for Syria?

Political capital does not come cheap in Washington, D.C. After weeks of trying to rally Congress to support him on a fast-changing policy in Syria, President Barack Obama may have broken the bank on what political capital he has left in his second term.

Congressman Steve Israel, chairman of the Democratic Congressional Campaign Committee, said he was surprised by how politicized the vote for military authorization in Syria has become.

Several Democratic representatives, including former veterans Rep. Tammy Duckworth and Rep. Tulsi Gabbard, oppose authorization.

"It's military families like mine that are the first to bleed when our nation makes this kind of commitment," Duckworth said in a statement.

But Israel said Obama is not hurting his credibility with Democratic members of the House, adding that after a Democratic caucus briefing, the party is now focused on Russia's diplomatic proposal to disarm Syria of its stockpile of nuclear weapons.

"Our focus on both sides of the aisle right now, quite honestly, is on ensuring that this is a legitimate, transparent, verifiable proposal," said Israel.

But much of the Democratic caucus, people Israel helped get elected in the last cycle, are against the president.

Asked if that lack of support stems from a distant relationship with the president, Israel said no, saying it is the shadow of Iraq that is driving Democrats' doubts on authorizing a strike against Syria.

"It has more to do with the concern that many of my colleagues had with intelligence in the prior administration," said Israel. There "is a sense that we've been down this road. We're dubious when the intelligence community tells us that there are weapons of mass destruction. Been there done that."

Moreover, Israel adds, a relationship with the president should not play a role in evaluating a vote of this nature.

"The relationship actually should be put aside when you're making decisions on whether to commit force," said Israel. "You've got to make a judgment not based on do I like this president, but do I believe the intelligence, and do I believe that his recommendation is the most appropriate course for the national security interests of this country?"

Obama's lack of support on Syria could cast a shadow on other legislative agendas, **such as the upcoming debt ceiling debate**.

"The issue is not whether the President of the United States has expended his political capital. The issue is whether House Republicans are willing to spend any of theirs," said Israel.

9) Alignment means congress is down with the plan too

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 59-60

Presidents and politicos alike have long recognized Congress's ability to reduce the political costs that the White House risks incurring by pursuing a major military initiative. While declarations of war are all but extinct in the contemporary period, Congress has repeatedly moved to authorize presidential military deployments and consequently to tie its own institutional prestige to the conduct and ultimate success of a military campaign. **Such authorizing legislation**, even if it fails to pass both chambers, **creates a sense of** shared legislative-executive responsibility for a military action's success **and provides the president with** considerable political support **for** **his chosen policy** course.34 Indeed, the desire for this political cover—and not for the constitutional sanction a congressional authorization affords—has historically motivated presidents to seek Congress's blessing for military endeavors. For example, both the elder and younger Bush requested legislative approval for their wars against Iraq, while assiduously maintaining that they possessed sufficient independent authority as commander in chief to order the invasions unilaterally.35 This fundamental tension is readily apparent in the elder Bush's signing statement to HJ Res 77, which authorized military action against Saddam Hussein in January of 1991. While the president expressed his gratitude for the statement of congressional support, he insisted that the resolution was not needed to authorize military action in Iraq. "As I made clear to congressional leaders at the outset, my request for congressional support did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution."36

11) And its empirically proven he’ll avoid the fight

William Howell and Jon Pevehouse, Associate Professors at the Harris School of Public Policy at the University of Chicago, 2007, When Congress Stops Wars, Foreign Affairs, EBSCO

After all, when presidents anticipate congressional resistance they will not be able to overcome, they often abandon the sword as their primary tool of diplomacy. More generally, when the White House knows that Congress will strike down key provisions of a policy initiative, it usually backs off. President Bush himself has relented, to varying degrees, during the struggle to create the Department of Homeland Security and during conflicts over the design of military tribunals and the prosecution of U.S. citizens as enemy combatants. Indeed, by most accounts, the administration recently forced the resignation of the chairman of the Joint Chiefs of Staff, General Peter Pace, so as to avoid a clash with Congress over his reappointment.

14) No Impact

Fisher Investments 12 (Fisher Investments is an independent investment adviser serving both individual and institutional investors, 12/10/12, Debt Ceiling Worries Are Overblown: Opinion, www.thestreet.com/story/11787447/1/debt-ceiling-worries-are-overblown-opinion.html)

The debt ceiling debate seems to have returned from the dead. But as our boss Ken Fisher has said, what many folks miss is that the debt ceiling is a purely political (and arbitrary) machination. And it's one that members of Congress aren't terribly motivated to fix, so it's unlikely to kick the bucket anytime soon.¶ For context, Congress used to have to approve debt issuance, but during World War I, lawmakers feared such a mundane task might slow potential war funding. Hence, they created the debt ceiling in 1917 to (try to) take themselves out of the picture.¶ Noble enough! But the limit was arbitrary and didn't account for debt's tendency to grow in sympathy with the broader economy. Hence, over time and as the country grew, our debt rose as well, butting up against Congress's arbitrary ceiling.¶ Congress mostly rubber-stamped debt ceiling increases until the mid-1950s, when lawmakers began using the debt ceiling as a political tool to leverage concessions from a president and/or the opposing party by threatening a government shutdown and a potential debt default.¶ This political gamesmanship has occurred over and over. Often the deliberations go down to the wire (or even a bit beyond) before a new ceiling is established. In fact, the debt ceiling has been lifted 91 times in the last 40 years. No politician wants to be tainted with causing the U.S. to default. Yet, at the same time, neither party wants to give up this potential battering ram. Hence, we likely will continue to have debt ceilings, debt ceiling debates and half-hearted "solutions" for "solving" the debt ceiling dilemma.¶ One such solution we've heard in recent years is minting a $1 trillion platinum coin, as explained in a post at AEIdeas, the public policy blog of the American Enterprise Institute.¶ At CNN, Jack M. Balkin wrote, "some commentators have suggested that the Treasury create two $1 trillion coins, deposit them in its account in the Federal Reserve and write checks on the proceeds."¶ That is ... one ... (theoretical) option. Yet we'd hasten to add it's entirely unnecessary and likely comes with unintended costs of its own. There is, after all, no such thing as a free lunch.¶ But beyond that, this theoretical $1 trillion platinum coin (and why must we use platinum, by the way?) is merely another arbitrary measure on top of the already arbitrary debt ceiling -- a Band-Aid on top of a Band-Aid.¶ Imagine for a moment that the Treasury does authorize creating and stashing a $1 trillion coin at the Fed. Failing a congressional debt ceiling lift, the government would issue new checks against the coin ad nausem until ... it reached the $1 trillion limit. But then perhaps Treasury would add another $1 trillion coin, and so forth and so on.¶ This merely would create a temporary bypass to the debt ceiling that likely would need to be revisited as the economy continues growing (as it always has, in fits and starts). Make no mistake: We're not fans of ever-increasing relative debt (mostly because we prefer smaller government relative to the private sector). But the absolute amount of debt pretty much has always grown and likely will continue to do so. (The government never repaid all the WW II-related borrowings after the war ended, yet a slower debt growth rate combined with economic growth reduced the size of debt relative to GDP).¶ We just think a debt ceiling serves little purpose outside of creating a periodic opportunity for political posturing. And remember, since 1921, Congress has been required to develop and pass a budget that ultimately determines what the nation spends in a given fiscal year. The Treasury merely issues debt to cover differences between government expenses and revenue.¶ Our bet is pols fold like they have 11 times in the last decade and find compromises to raise the debt ceiling again. But we'd be remiss if we didn't address the economic consequences if the government doesn't lift the ceiling before borrowings hit the $16.4 trillion debt ceiling as projected in February 2013. Those consequences, at least in the near term, aren't catastrophic.¶ The government need only delay some nonessential spending or shut down some services, such as national parks or passport issuance. At only 1.4% of GDP (as of 2011), debt service costs are tiny and likely easily paid by revenues (only 9.9% of total tax revenue in 2011, according to the White House Office of Management and Budget.) So the likelihood of default is also exceedingly low. And of course, it's probably also likely that the government finds some extra cash in the sofa cushions or a $20 bill in the laundry, buying further time for Congress to find resolution.¶ The debt ceiling is so arbitrary and so lacking in real, economic impact that you just don't need to spend the time conjuring schemes like trillion-dollar coins, Fed vaults and check writing. Given time, politicians are highly likely to do what they've nearly always done: Politick to the last moment, then raise the debt ceiling.

Economic collapse doesn’t cause war

Jervis, professor of political science – Columbia University, ‘11 (Robert, Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425)

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

# \*\*\*1AR\*\*\*

## 1ar counter interp

“Restrictions” control when and how operations occur

Lobel, professor of law at the University of Pittsburgh, 2008

(Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf)

The Framers of the Constitution intended that Congress have substantial power to control the conduct of warfare it has authorized. **The** consistent **history of congressional restrictions confirms that the Constitution grants Congress**concurrent **power to decide not only whether to initiate warfare**, **but how and in what manner those authorized wars should be fought**. Accordingly, the Constitution sensibly accords the President considerable flexibility and discretion to prosecute a war, but permits Congress to maintain the ultimate authority to decide whether the President’s policies and strategies are those the nation should follow.

Restriction includes conditions on action

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition.").

P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these **commonly accepted definitions**, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] **statutorily required** to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also **prohibited from driving any vehicle that was not equipped with such a device**, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

Our definition is most legally precise

Plummer 29 J., Court Justice, MAX ZLOZOWER, Respondent, v. SAM LINDENBAUM et al., Appellants Civ. No. 3724COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT100 Cal. App. 766; 281 P. 102; 1929 Cal. App. LEXIS 404September 26, 1929, Decided, lexis

The word "restriction," when used in connection with the grant of interest in real property, is construed as being the legal equivalent of "condition." Either term may be used to denote a limitation upon the full and unqualified enjoyment of the right or estate granted. The words "terms" and "conditions" are often used synonymously when relating to legal rights. "Conditions and restrictions" are that which limits or modifies the existence or character of something; a restriction or qualification. It is a restriction or limitation modifying or destroying the original act with which it is connected, or defeating, terminating or enlarging an estate granted; something which defeats or qualifies an estate; a modus or quality annexed by him that hath an estate, or interest or right to the same, whereby an estate may be either defeated, enlarged, or created upon an uncertain event; a quality annexed to land whereby an estate may be defeated; a qualification or restriction annexed to a deed or device, by virtue of which an estate is made to vest, to be enlarged or defeated upon the happening or not happening of a particular event, or the performance or nonperformance of a particular act.

Does not require wholesale prohibition—limiting production is a restriction

Texas Supreme Court 10,

CAUSE NO. 08-01-18,007-CV-A, Final Judgment, http://www.supreme.courts.state.tx.us/ebriefs/12/12046401.pdf

"Restriction" is defined and commonly used to mean "[a] limitation (esp. in a deed) placed on the use or enjoyment of property." BLACK'S LAW DICTIONARY 1054 (7th ed. 2000).

Restrictions qualify production

Wright v. Magellan Behavioral Health, Inc., 2007 U.S. Dist. LEXIS 48718 2007

In the instant case, the Court is required to interpret the word "restriction" as used by the parties in the Agreement. The parties apparently agree that the legal definition of restriction—"a limitation or qualification," Black’s Law Dictionary 1341 (8th ed. 1999)—is a good place to start. Thus, the Court must determine whether the board’s supervision requirement falls within this definition.

And that includes conditions

Oxford Dictionaries, http://oxforddictionaries.com/definition/english/qualification

Definition of qualification noun 1a pass of an examination or an official completion of a course, especially one conferring status as a recognized practitioner of a profession or activity: I left school at 15 with no qualifications [mass noun] the action or fact of becoming qualified as a recognized practitioner of a profession or activity: her qualification as a barrister a quality or accomplishment that makes someone suitable for a particular job or activity: only one qualification required—fabulous sense of humour 2a condition that must be fulfilled before a right can be acquired; an official requirement: the five-year residency qualification for presidential candidates

## 1ar---POLITICS

They make a shutdown arg somewhere---just to clean this up, there’s no impact to that even if Obama needs to expend cap

Hans A. von Spakovsky 9-18, senior legal fellow at Heritage and former DoJ lawyer, “What Happens During a Government Shutdown”, <http://www.heritage.org/research/reports/2013/09/what-happens-during-a-government-shutdown>

If President Barack Obama “shuts down” the government by vetoing a continuing resolution (CR) that funds all government operations with the exception of Obamacare, or the Senate fails to pass such a CR, crucial services will continue without interruption. That includes all services essential for national security and public safety—such as the military and law enforcement—as well as mandatory government payments such as Social Security and veterans’ benefits.

The key fact, as the U.S. Department of Justice (DOJ) itself has said, is that when there is a short-term lapse in appropriations, “the federal Government will not be truly ‘shut down’…because Congress has itself provided that some activities of Government should continue.” In fact, any claims that not passing a CR will result in a “shutting down” of the government “is an entirely inaccurate description” according to the DOJ.[1]

Such a lapse in funding would be neither catastrophic nor unprecedented, but it would pare down government services to those most essential for “the safety of human life or the protection of property.” That would not include the hundreds of billions of dollars in the federal budget that are constantly squandered and wasted on frivolous, unnecessary, and unneeded programs.

## 1ar at uniqueness

#### No more negotiations---their ev

JAKE SHERMAN and JOHN BRESNAHAN , 9/20 (Obama calls Boehner, rules out debt negotiations, <http://www.politico.com/story/2013/09/barack-obama-john-boehner-debt-negotiations-97153.html#ixzz2fUBFP4JH>)

“Given the long history of using debt limit increases to achieve bipartisan deficit reduction and economic reforms, the speaker was disappointed but told the president that the two chambers of Congress will chart the path ahead,” a Boehner aide said in an email. “It was a brief call.” (Also on POLITICO: Senate turns to CR that defunds Obamacare) This is not a new position for Obama, or a new response from Boehner. The two men have negotiated in the past to raise the nation’s debt cap, but Obama now sees any more negotiations as unwise. The president’s position is that Congress should raise the $16.7 trillion debt ceiling without any accompanying budget changes or reforms — a so-called “clean” debt ceiling increase. Yet it’s unclear if such a hike could pass in the House or the Senate.

## --xt #2 uniqueness

No solution

Zachary Goldfarb, WaPo, 9/15/13, Obama and Boehner both enter upcoming domestic debates with a weakened hand, www.washingtonpost.com/politics/obama-and-boehner-both-enter-upcoming-domestic-debates-with-a-weakened-hand/2013/09/15/c308e8e0-1d4a-11e3-82ef-a059e54c49d0\_story.html

**This time may prove the hardest**. Democrats say they are absolutely against the main Republican demands: a delay or defunding of the health-care law, and further cuts to domestic spending.

Although GOP leaders say they may be able to get just enough votes to get through the Sept. 30 deadline without a shutdown, they **do not yet see a way to find agreement to raise the debt ceiling**. Obama says he will not negotiate on the debt limit, and some members **expect this time will be worse than previous clashes**.

“It’s Groundhog Day in the House, but it’s Groundhog Day coming up on default and shutdown,” said Rep. Peter Welch (D-Vt.). “The House is dysfunctional. The question is whether in the next couple of weeks it will actually disintegrate.”

While the divisions among the Republicans run deeper and are more acrimonious, several key Democrats have significant concerns about the White House’s approach to this fall’s budget strategy.

Congressional dysfunction means capital is irrelevant to the debt ceiling debate

Jake Sherman, Politico, 9/15/13, House Republican leaders: Debt hike is the better fight, dyn.politico.com/printstory.cfm?uuid=1B7EFEA5-17D0-422A-A0FA-C95DCB5CC277

A government shutdown is looming on Oct. 1. But don’t worry about it.

That’s the message the House Republican leadership and its allies are spreading as Congress moves toward a fiscal showdown with President Barack Obama and the Democrats, a clash with huge political and economic ramifications for both parties.

Speaker John Boehner (R-Ohio), Majority Leader Eric Cantor (R-Va.), Majority Whip Kevin McCarthy (R-Calif.) and their allies are instead privately urging rank and file to forgo a clash over government funding — and a possible government shutdown — and instead dig in against Obama and the Democratic Senate when the debt ceiling needs to be lifted sometime next month.

Boehner and his top lieutenants believe that digging in for a fight over the debt ceiling gives them more leverage against Obama and Democrats. Republicans hope to take advantage of Obama’s desire to blunt $20 billion in sequester cuts that kick in Jan. 1 to reach a broader budget deal with the White House.

There’s even been chatter in and around leadership about holding a vote on a debt ceiling bill before the government funding measure — a way to satiate conservatives’ budget-cutting hunger and help avoid a government shutdown.

Center stage in all of this is funding Obamacare. Roughly 30 Republicans refused to vote for a government funding bill if it provides money for the health care law. GOP leadership thought giving those lawmakers a vote on defunding the law and kicking it over the Senate would be enough.

They were wrong.

Now instead of leadership’s strategy of moving the fight to the Senate, **Republicans are coalescing around having the battle in the House**. That’s why leadership’s strategy is far from certain to work.

According to internal House GOP counts, roughly two-dozen House Republicans are refusing to vote for a continuing resolution that funds Obamacare. After rejecting Cantor’s funding plan — which would’ve funded the government at the $988 billion level while including nonbinding language defunding Obamacare — dozens of Republicans have signed on to a bill by Rep. Tom Graves (R-Ga.), which funds the government at $967 billion in 2014 while delaying implementation of Obamacare until 2015.

Those aren’t the only challenges.

House GOP leadership has acknowledged to Democrats that **it has no idea how it’s going to cobble together a package to boost the debt ceiling**, so urging a fight there is far from a fireproof move.

Early discussions have begun over the debt ceiling, and Republicans want their opening bid to tie elements of entitlement reform to the debt ceiling, a laughable request for Democrats and the White House.

But Boehner admitted to Senate Majority Leader Harry Reid (D-Nev.) and House Minority Leader Nancy Pelosi (D-Calif.) in a private session last week that he is not even sure he has the votes to pass a debt ceiling package with entitlement cuts. He also admitted that passing a CR will be a heavy lift.

## --xt #6 syria thumper

Syria overwhelms

Ed Morrissey, Hot Air, 8/28/13, Bipartisan House coalition demands Congressional approval on Syria strike, hotair.com/archives/2013/08/28/bipartisan-house-coalition-demands-congressional-approval-on-syria-strike/

**Rising discontent among members of Congress over being bypassed on Syria has a distinctly bipartisan cast**, ABC News reports. A group of eighty-one members of the House will send a letter to President Barack Obama this afternoon demanding that the commander-in-chief seek authorization from Capitol Hill before launching a military attack on a nation that presents no imminent threat to the security of the US. The group contains a dozen Democrats, and that number may rise:

A growing bipartisan coalition in Congress is coming together to “strongly urge” President Obama “to consult and receive authorization from Congress before ordering the use of U.S. military force in Syria.”

In a letter that will be sent to the president later today, Rep. Scott Rigell, a second-term Republican from Virginia, joins at least 81 of his Republican and Democratic colleagues in demanding that the president first acquire consent from Congress, citing the War Powers Resolution of 1973, before responding militarily to the Syrian government’s purported use of chemical weapons on Aug. 21.

“While the Founders wisely gave the Office of the President the authority to act in emergencies, they foresaw the need to ensure public debate — and the active engagement of Congress — prior to committing U.S. military assets,” the group, which so far includes 69 Republicans and 13 Democrats, writes. “Engaging our military in Syria when no direct threat to the United States exists and without prior congressional authorization would violate the separation of powers that is clearly delineated in the Constitution.”

Won’t go away

Albert Hunt, Bloomberg, 9/15/13, Obama’s Syria Meanderings Border on Incompetence, www.bloomberg.com/news/2013-09-15/obama-s-syria-meanderings-border-on-incompetence.html

These convolutions didn’t build confidence in the president among politicians, the public, U.S. allies or adversaries. The next several months will be exceedingly difficult for the Obama administration. Syria won’t go away; there will be economy-threatening standoffs over the deficit and the debt ceiling, a hotly debated nomination for the next chairman of the Federal Reserve Board **and** probably some **unanticipated crises**. One example: The ongoing investigation of alleged leaks of classified security information from the Obama White House. These days, almost all leak investigations, whether of private citizens or public figures, are a waste of taxpayer dollars. But this one could be embarrassing.