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#### Restrictions are prohibitions on action --- the aff is a reporting requirement

Jean Schiedler-Brown 12, 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.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### OCO excludes cyber espionage

Rattray and Healey 10 (Gregory and Jason, Fellow @ Internet Corporation for Assigned Names and Numbers and Fellow @ Delta Risk, Proceedings of a Workshop on Deterring Cyberattacks: Informing Strategies and Developing Options for U.S. Policy, "Categorizing and Understanding Offensive Cyber Capabilities and Their Use," p. 77)

For the purposes of this paper, offensive operations are those analogous to Computer Network Attacks (CNA), as defined by the Department of Defense, and do not include acts of cyber espionage, or Computer Network Exploitation. Through both types of operations may use similar technical techniques to access an adversary's networks, cyber exploitation is generally more akin to espionage than offensive operations. This paper's focus is therefore on Computer Network Attacks, whether operations between political actors operating across state boundaries or by non-state actors for political purposes.

#### B. Vote Neg –

#### 1. Limits – Regulation and oversight of authority allows a litany of new affs in each area – justifies indirect effects and affs that don’t alter presidential authority – also imiting it to cyberattacks is key to prevent proliferation of small, exploitation and defense affs

#### 2. Ground – Restriction ground is the locus of neg prep – their interpretation jacks all core disads – politics, presidential powers, and any area based disad because an aff doesn’t have to prevent the president from doing anything

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#### The aff doesn’t provide real reform – continued crisis discourse allows a re-expansion of executive authority

Scheuerman 12 -- Professor of Political Science and West European Studies at Indiana University (William E., Summer 2012, "Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy," Law & Social Inquiry 37(3), EBSCO)

IV. REFORMISM'S LIMITS Bruce Ackerman, one of our country's most observant analysts of its clunky constitutional machinery, is similarly impatient with the "comforting notion that our heroic ancestors" created an ideal constitutional and political system (2010, 10). He even agrees that the US model increasingly seems to overlap with Schmitt's dreary vision of executive-centered plebiscitarianism motored by endless crises and emergencies (2010, 82). In sharp contrast to Posner and Vermeule, however, he not only worries deeply about this trend, but he also discards the unrealistic possibility that it might be successfully countered without recourse to legal and constitutional devices. Although Madison's original tripartite separation of powers is ill-adjusted to the realities of the modern administrative state, we need to reinvigorate both liberal legalism and checks and balances. Unless we can succeed in doing so, US citizens are likely to experience a "quantum leap in the presidency's destructive capacities" in the new century (2010, 119). Despite its alarmist tenor, for which he has been—in my view—unfairly criticized,'' Ackerman's position is grounded in a blunt acknowledgment of the comparative disadvantages of the US constitutional system. More clearly than any of the other authors discussed in this article, he breaks cleanly with the intellectual and constitutional provincialism that continues to plague so much legal and political science research on the United States. In part because as "late developers" they learned from institutional mistakes in the United States and elsewhere, more recently designed liberal democracies often do a better job than our Model T version at guaranteeing both policy effectiveness and the rule of law (2010, 120-22). Following the path-breaking work of his colleague Juan Linz, Ackerman offers a critical assessment of our presidential version of liberal democracy, where an independently elected executive regularly finds itself facing off against a potentially obstructionist Congress, which very well may seek to bury "one major presidential initiative after another" (2010, 5; see also Linz 1994). In the context of either real or imagined crises, executives facing strict temporal restraints (i.e., an upcoming election), while claiming to be the people's best protector against so-called special interests, will typically face widespread calls for swift (as well as legally dubious) action. "Crisis talk," in part endogenously generated by a flawed political system prone to gridlock rather than effective policy making, "prepares the ground for a grudging acceptance of presidential unilateralism" (2010, 6). Executives everywhere have much to gain from crisis scenarios. Yet incentives for declaring and perpetuating emergencies may be especially pronounced in our presidential system. The combination of temporal rigidity (i.e., fixed elections and terms of office) and "dual democratic legitimacy" (with both Congress and the president claiming to speak for "we the people") poses severe challenges to law-based government (Linz 1994). Criticizing US scholarship for remaining imprisoned in the anachronistic binary contrast of "US presidentialism vs. Westminster parliamentarism," Ackerman recommends that we pay closer attention to recent innovations achieved by what he describes as "constrained parliamentarism," basically a modified parliamentary system that circumvents the worst design mistakes of both Westminster parliamentarism and US presidentialism. As he has argued previously in a lengthy Harvard Law Review article, constrained parliamentarism—as found, for example, in recent democracies like Germany and Spain—locates law making in a Westminster-style popular assembly. But in contrast to the UK model, "legislative output is constrained by a higher lawmaking process" (2000, 666). The German Eederal Republic, for example, rests on a written constitution (e.g., the Basic Law) and has a powerful constitutional court. In Ackerman's view, constrained parliamentarism lacks many of the institutional components driving the growth of executive-dominated emergency govemment. Not surprisingly, he posits, it suffers to a reduced degree from many of the institutional pathologies plaguing US-style presidentialism. Ackerman argues that, in contrast, US-style presidential models have regularly collapsed elsewhere (e.g., in Latin and South American countries, where US-style presidentialism has been widely imitated [Linz and Valenzuela 1994]), devolving on occasion into unabated authoritarianism (2000, 646). Ackerman now seems genuinely concerned that a similar fate might soon befall its original version. Even if his most recent book repeats some earlier worries, he has now identified additional perils that he thinks deserve immediate attention. Not surprisingly, perhaps, his anxiety level has noticeably increased. Even Schmitt's unattractive vision of presidential authoritarianism appears "a little old-fashioned," given some ominous recent trends (2010, 82). To an extent unfathomable in Schmitt's day, the executive can exploit quasi-scientific polling data in order to gauge the public pulse. Presidents now employ a small but growing army of media gurus and consultants who allow them to craft their messages in astonishingly well-skilled—and potentially manipulative—ways. Especially during crisis moments, an overheated political environment can quickly play into the hands of a "White House propaganda machine generating a stream of sound bites" (2010, 33). Pundits and opinion makers already tend to blur the crucial divide between polling "numbers" and actual votes, with polls in both elite and popular consciousness tending not only to supplement but increasingly displace election results.'^ The decline of the print media and serious joumalism—about which Ackerman is understandably distressed—means that even the most fantastic views are taken seriously. Thus far, the Internet has failed to pick up the slack; it tends to polarize public opinion. Meanwhile, our primary system favors candidates who successfully appeal to an energized partisan base, meaning that those best able to exploit public opinion polling and the mass media, but out of sync with the median voter, generally gain the party nomination. Linz earlier pointed out that presidentialism favors political outsiders; Ackerman worries that in our emerging presidential model, the outsiders will tend to be extremists. Polling and media-savvy, charismatic, and relatively extreme figures will colonize the White House. In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military—an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of govemment against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force—allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public,'^ suggests that this long-standing structural flaw has recently gotten worse. The Goldwater-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal—and hugely influential—spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied—both in govemment and the public eye—in a single leader whose views carry tremendous weight. The fact that opinion surveys show that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87). Having painted a foreboding portrait of institutional trends, Ackerman points to paths we might take to ward off the worst. In light of the obvious seriousness of the illness he has diagnosed, however, his antidotes tend to disappoint: he proposes that we treat cancer with some useful but limited home remedies. Like Shane, Ackerman wants to improve popular deliberation by reforming the mass media and institutionalizing "Deliberation Day" (2010, 125-40). Yet how such otherwise potentially appealing initiatives might counteract the symbiotic relationship between presidentialism and crisis government remains ambiguous. A modernized electoral college, for example, might simply engender executives better positioned to claim to stand in for "we the people" than their historical predecessors. Given Ackerman's own worries about plebiscitarianism, this reform might compound rather than alleviate our problems. More innovatively, Ackerman endorses the idea of a quasi-judicial check within the executive branch, a "Supreme Executive Tribunal" given the task of expeditiously determining the legality of proposed executive action, whose members would be appointed to staggered terms and subject to Senate confirmation. Forced to gain a seal of approval from jurists relatively insulated from sitting presidents, the executive tribunal would act more quickly than an ordinary court and thereby help put a "brake on the presidential dynamic before it can gather steam" (2010,143). Before the president could take the first political move and potentially alter the playing field, he or she might first have to clear the move with a body of legal experts, a requirement that presumably over time would work to undergird the executive branch's commitment to legality. The proposed tribunal could allow the president and Congress to resolve many of their standoffs more expeditiously than is typical today (2010, 146). Congressional representatives, for example, might rely on the tribunal to challenge executive signing statements. Existing exemptions for a significant number of major executive-level actors (e.g., the president's National Security Advisor) from Senate confirmation also need to be abandoned, while the military should promulgate a new Canon of Military Ethics, aimed at clarifying what civilian control means in contemporary real-life settings, in order to counteract its ongoing politicization. Goldwater-Nichols could be revised so as better to guarantee the subordination of military leaders to the Secretary of Defense (2010, 153-65). Ackerman also repeats his previous calls for creating an explicit legal framework for executive emergency action: Congress could temporarily grant the president broad discretionary emergency powers while maintaining effective authority to revoke them if the executive proved unable to gain ever more substantial support from the legislature (2010, 165-70; see also Ackerman 2006). Each of these suggestions demands more careful scrutiny than possible here. Nonetheless, even if many of them seem potentially useful, room for skepticism remains. Why, for example, would the proposed executive tribunal not become yet another site for potentially explosive standoffs between presidents and Congress? Might not highlevel political conflicts end up simply taking the forms of destructive (and misleadingly legalistic) duels? To the extent that one of the tribunal's goals is to decelerate executive decision making, its creation would perhaps leave our already sluggish and slow-moving political system even less able than at the present to deal with fast-paced challenges. Faced with time constraints and the need to gain popular support, executives might then feel even more pressed than at present to circumvent legality. As Ackerman knows, even as it presently operates, the Senate confirmation process is a mess. His proposal to extend its scope might simply end up reproducing at least some familiar problems. Last but not least, given the perils he so alarmingly describes, his proposed military reforms seem unsatisfying. Why not instead simply cut our bloated military apparatus and abandon US imperial pretensions? The obvious Achilles heel is that none of the proposals really deals head-on with what Ackerman himself conceives as the fundamental root of executive-centered government: an independently elected president strictly separated from legislative bodies with which he periodically clashes in potentially destructive ways. Despite Ackerman's ambition, his proposals do not provide structural reform: he concludes that US-based reformers should "take the independently elected presidency as a fixture" (2010, 124). Thus, presidential government is here to stay; reformers can also forget about significantly altering our flawed system of presidential primaries, activist government, and powerful military that intervenes frequently abroad (2010, 124). Given contemporary political developments, one can certainly appreciate why Ackerman is skeptical that the US system might finally be ripe for a productive institutional overhaul. Nonetheless, this just makes an already rather bleak book look even bleaker. His book's title. The Decline and Fall of the Arnerican Republic, is out of step with the somewhat upbeat reformist proposals detailed in its final chapters. Regretfully, the title better captures his core message. Only Ackerman's ultimately disturbing book both adeptly rejects the tendency among recent students of executive power to revert to constitutional nostalgia while forthrightly identifying the very real dangers posed by recent institutional trends. In an age of permanent or at least seemingly endless emergencies, where the very attempt to cleanly distinguish dire crises from "normal" political and social challenges becomes exceedingly difficult, the executive threatens to become an even more predominant— and potentially lawless—institutional player Unfortunately, US-style presidential democracy may be particularly vulnerable to this trend. Ackerman proves more successful than the other authors discussed here because he is best attuned to a rich body of comparative constitutional and political science scholarship that has raised legitimate doubts about the alleged virtues of US-style liberal democracy. Not surprisingly, some of his own reform ideas—for example, his proposed system of emergency law making—draw heavily on foreign examples, including Canada and new democracies such as South Africa. He convincingly argues that we might at least ameliorate the widespread tendency among presidents to manipulate crises for narrow partisan reasons, for example, by relying on the clever idea of a supermajoritarian escalator, which would require every legislative renewal of executive emergency authority to rest on ever more numerous supermajorities (2006). Ackerman is right to suggest that the United States needs to look abroad in order to improve our rather deficient system of emergency rule (Scheuerman 2006, 2008). Our system is broken; it is time to see what can be learned from others. Ackerman's latest book's overly cautious reformism thus seems especially peculiar in light of his own powerful and indeed enthusiastic defense of constrained parliamentarism, which he quite plausibly describes as potentially offering a superior approach to emergency government. The key point is not that we can be absolutely sure that the "grass is greener" in new democracies such as postwar Germany or post-Franco Spain; existing empirical evidence offers, frankly, a mixed picture. Contemporary Germany, for example, has certainly experienced its own fair share of emergency executive excesses (Frankenberg 2010). Scholars have criticized not only the empirical thesis that presidentialism and a strict separation of powers can help explain the substantial growth of executive discretion (Carolan 2009; Gross and Ni Aolain 2006), but also more farreaching assertions about their alleged structural disadvantages (Cheibub 2006). Still others argue that parliamentary regimes even of the "old type" (i.e., the UK Westminster model) have done relatively well in maintaining the rule of law during serious crises (Ewing and Gearty 2000; Bellamy 2007, 249-53). Unfortunately, we still lack wellconceived empirical studies comparing constrained parliamentarism with US-style presidentialism. Too much existing scholarship focuses on single countries, or relies on "foreign" cases but only in a highly selective and anecdotal fashion. Until we have more properly designed comparative studies, however, it seems inaccurate to assume a priori that core institutional features of US presidential democracy are well equipped to tackle the many challenges at hand. As I have tried to argue here, a great deal of initial evidence suggests that this simply is not the case. Admittedly, every variety of liberal democracy confronts structural tendencies favoring the augmentation of executive power: many of the social and economic roots (e.g., social acceleration) of executive-centered crisis govemment represent more-or-less universal phenomena, likely to rattle even well-designed constitutional systems. One can also easily imagine that in decades to come, extreme "natural" catastrophes— increasingly misnamed, because of their links to human-based climate change— justifying declarations of martial law or states of emergency will proliferate, providing novel possibilities for executives to expand their authority.^° So it would be naive to expect any easy constitutional or political-institutional fix. However, this sobering reality should not lead us to abandon creative institutional thinking. On the contrary, it arguably requires of us that we try to come up with new institutional models, distinct both from existing US-style presidentialism and parliamentarism, constrained or otherwise.

#### That makes global crises and war inevitable – interrogating the epistemological failures of the 1AC is a pre-req to addressing the systemic causes of violence – vote neg to reject dominant security discourse

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While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad. The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question. As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves. There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them. Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation. Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

#### The alternative is to reject dominant security discourse – good theory now drives better policies later

Bruce 96 (Robert, Associate Professor in Social Science – Curtin University and Graeme Cheeseman, Senior Lecturer – University of New South Wales, Discourses of Danger and Dread Frontiers, p. 5-9)

This goal is pursued in ways which are still unconventional in the intellectual milieu of international relations in Australia, even though they are gaining influence worldwide as traditional modes of theory and practice are rendered inadequate by global trends that defy comprehension, let alone policy. The inability to give meaning to global changes reflects partly the enclosed, elitist world of professional security analysts and bureaucratic experts, where entry is gained by learning and accepting to speak a particular, exclusionary language. The contributors to this book are familiar with the discourse, but accord no privileged place to its ‘knowledge form as reality’ in debates on defence and security. Indeed, they believe that debate will be furthered only through a long overdue critical re-evaluation of elite perspectives. Pluralistic, democratically-oriented perspectives on Australia’s identity are both required and essential if Australia’s thinking on defence and security is to be invigorated. This is not a conventional policy book; nor should it be, in the sense of offering policy-makers and their academic counterparts sets of neat alternative solutions, in familiar language and format, to problems they pose. This expectation is in itself a considerable part of the problem to be analysed. It is, however, a book about policy, one that questions how problems are framed by policy-makers. It challenges the proposition that irreducible bodies of real knowledge on defence and security exist independently of their ‘context in the world’, and it demonstrates how security policy is articulated authoritatively by the elite keepers of that knowledge, experts trained to recognize enduring, universal wisdom. All others, from this perspective, must accept such wisdom or remain outside the expert domain, tainted by their inability to comply with the ‘rightness’ of the official line. But it is precisely the official line, or at least its image of the world, that needs to be problematised. If the critic responds directly to the demand for policy alternatives, without addressing this image, he or she is tacitly endorsing it. Before engaging in the policy debate the critics need to reframe the basic terms of reference. This book, then, reflects and underlines the importance of Antonio Gramsci and Edward Said’s ‘critical intellectuals’.15 The demand, tacit or otherwise, that the policy-maker’s frame of reference be accepted as the only basis for discussion and analysis ignores a three thousand year old tradition commonly associated with Socrates and purportedly integral to the Western tradition of democratic dialogue. More immediately, it ignores post-seventeenth century democratic traditions which insist that a good society must have within it some way of critically assessing its knowledge and the decisions based upon that knowledge which impact upon citizens of such a society. This is a tradition with a slightly different connotation in contemporary liberal democracies which, during the Cold War, were proclaimed different and superior to the totalitarian enemy precisely because there were institutional checks and balances upon power. In short, one of the major differences between ‘open societies’ and their (closed) counterparts behind the Iron Curtain was that the former encouraged the critical testing of the knowledge and decisions of the powerful and assessing them against liberal democratic principles. The latter tolerated criticism only on rare and limited occasions. For some, this represented the triumph of rational-scientific methods of inquiry and techniques of falsification. For others, especially since positivism and rationalism have lost much of their allure, it meant that for society to become open and liberal, sectors of the population must be independent of the state and free to question its knowledge and power. Though we do not expect this position to be accepted by every reader, contributors to this book believe that critical dialogue is long overdue in Australia and needs to be listened to. For all its liberal democratic trappings, Australia’s security community continues to invoke closed monological narratives on defence and security. This book also questions the distinctions between policy practice and academic theory that inform conventional accounts of Australian security. One of its major concerns, particularly in chapters 1 and 2, is to illustrate how theory is integral to the practice of security analysis and policy prescription. The book also calls on policy-makers, academics and students of defence and security to think critically about what they are reading, writing and saying; to begin to ask, of their work and study, difficult and searching questions raised in other disciplines; to recognise, no matter how uncomfortable it feels, that what is involved in theory and practice is not the ability to identify a replacement for failed models, but a realisation that terms and concepts – state sovereignty, balance of power, security, and so on – are contested and problematic, and that the world is indeterminate, always becoming what is written about it. Critical analysis which shows how particular kinds of theoretical presumptions can effectively exclude vital areas of political life from analysis has direct practical implications for policy-makers, academics and citizens who face the daunting task of steering Australia through some potentially choppy international waters over the next few years. There is also much of interest in the chapters for those struggling to give meaning to a world where so much that has long been taken for granted now demands imaginative, incisive reappraisal. The contributors, too, have struggled to find meaning, often despairing at the terrible human costs of international violence. This is why readers will find no single, fully formed panacea for the world’s ills in general, or Australia’s security in particular. There are none. Every chapter, however, in its own way, offers something more than is found in orthodox literature, often by exposing ritualistic Cold War defence and security mind-sets that are dressed up as new thinking. Chapters 7 and 9, for example, present alternative ways of engaging in security and defence practice. Others (chapters 3, 4, 5, 6 and 8) seek to alert policy-makers, academics and students to alternative theoretical possibilities which might better serve an Australian community pursuing security and prosperity in an uncertain world. All chapters confront the policy community and its counterparts in the academy with a deep awareness of the intellectual and material constraints imposed by dominant traditions of realism, but they avoid dismissive and exclusionary terms which often in the past characterized exchanges between policy-makers and their critics. This is because, as noted earlier, attention needs to be paid to the words and the thought processes of those being criticized. A close reading of this kind draws attention to underlying assumptions, showing they need to be recognized and questioned. A sense of doubt (in place of confident certainty) is a necessary prelude to a genuine search for alternative policies. First comes an awareness of the need for new perspectives, then specific policies may follow. As Jim George argues in the following chapter, we need to look not so much at contending policies as they are made for us but at challenging ‘the discursive process which gives [favoured interpretations of “reality”] their meaning and which direct [Australia’s] policy/analytical/military responses’. This process is not restricted to the small, official defence and security establishment huddled around the US-Australian War Memorial in Canberra. It also encompasses much of Australia’s academic defence and security community located primarily though not exclusively within the Australian National University and the University College of the University of New South Wales. These discursive processes are examined in detail in subsequent chapters as authors attempt to make sense of a politics of exclusion and closure which exercises disciplinary power over Australia’s security community. They also question the discourse of ‘regional security’, ‘security cooperation’, ‘peacekeeping’ and ‘alliance politics’ that are central to Australia’s official and academic security agenda in the 1990s. This is seen as an important task especially when, as is revealed, the disciplines of International Relations and Strategic Studies are under challenge from critical and theoretical debates ranging across the social sciences and humanities; debates that are nowhere to be found in Australian defence and security studies. The chapters graphically illustrate how Australia’s public policies on defence and security are informed, underpinned and legitimised by a narrowly-based intellectual enterprise which draws strength from contested concepts of realism and liberalism, which in turn seek legitimacy through policy-making processes. Contributors ask whether Australia’s policy-makers and their academic advisors are unaware of broader intellectual debates, or resistant to them, or choose not to understand them, and why?

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#### The United States federal judiciary should require that offensive cyber operations be funded, conducted, and directed pursuant to Title 50 United States Code § 413b.

#### Judicial restrictions solve and the executive complies

Bradley and Morrison 13 (Curtis and Trevor, Prof of Law @ Duke + Prof of Law @ Columbia, "PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND ¶ LEGAL CONSTRAINT," http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5451&context=faculty\_scholarship)

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also ¶ takes for granted a phenomenon that merits attention—that Presidents ¶ follow judicial decisions.118 That assumption is generally accurate in the ¶ United States today. To take one relatively recent example, despite disagreeing with the Supreme Court’s determination in Hamdan v. Rumsfeld ¶ that Common Article 3 of the Geneva Conventions applies to the war on ¶ terror, the Bush Administration quickly accepted it.119 But the reason why ¶ Presidents abide by court decisions has a connection to the broader issue¶ of the constraining effect of law. An executive obligation to comply with ¶ judicial decisions is itself part of the practice-based constitutional law of the ¶ United States, so presidential compliance with this obligation may ¶ demonstrate that such law can in fact constrain the President. This is ¶ true, as we explain further in Part III, even if the effect on presidential ¶ behavior is motivated by concerns about external political perceptions ¶ rather than an internal sense of fidelity to law (or judicial review).120¶ A final complication is that, with respect to issues of presidential ¶ power, there are few situations in which the prospect of judicial review is ¶ actually zero. If the Supreme Court can decide Bush v. Gore121 and the war ¶ on terror cases, it can decide a lot.122 Areas of presidential power that ¶ typically see little judicial involvement might become areas of greater ¶ involvement under certain conditions. Moreover, the likelihood of ¶ judicial review is probably affected by the extent to which courts perceive ¶ the President to be stretching traditional legal understandings. As a ¶ result, it might be more accurate to describe the constitutional law of ¶ presidential power as judicially underenforced, rather than unenforceable. Even outside the separation of powers area, there is an extensive ¶ literature on the legal status of underenforced constitutional norms. For ¶ a variety of reasons, including justiciability limitations, immunity ¶ doctrines, and judicial deference to coordinate institutions, it has long ¶ been understood that the Constitution is not fully enforced by the courts. ¶ Nevertheless, courts and scholars commonly accept that judicially ¶ underenforced constitutional norms retain the status of law beyond the ¶ extent of judicial enforcement.123

#### Judicial restrictions on executive authority are vital to signal judicial independence globally – key to democracy

CJA et al 3 ("Brief of the Center for Justice and Accountability, International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," October, Odah vs. USA and Rasul vs. Bush, http://jenner.com/system/assets/assets/5567/original/AmiciCuriae\_Center\_for\_Justice\_Int\_League\_Human\_Rights\_Adv\_For\_Indep\_Judiciary2.pdf?1323207521)

While much of the world is moving to adopt the institutions ¶ necessary to secure individual rights, many still regularly ¶ abuse these rights. One of the hallmarks of tyranny is the lack ¶ of a strong and independent judiciary. Not surprisingly, ¶ where countries make the sad transition to tyranny, one of the ¶ first victims is the judiciary. Many of the rulers that go down ¶ that road justify their actions on the basis of national security ¶ and the fight against terrorism, and, disturbingly, many claim ¶ to be modeling their actions on the United States. ¶ Again, a few examples illustrate this trend. In Peru, one of ¶ former President Alberto Fujimori’s first acts in seizing ¶ control was to assume direct executive control of the ¶ judiciary, claiming that it was justified by the threat of ¶ domestic terrorism. He then imprisoned thousands, refusing ¶ the right of the judiciary to intervene. International ¶ Commission of Jurists, Attacks on Justice 2000-Peru, August ¶ 13, 2001, available at¶ http://www.icj.org/news.php3?id\_article=2587&lang=en (last ¶ visited Jan. 8, 2004). ¶ In Zimbabwe, President Mugabe’s rise to dictatorship has ¶ been punctuated by threats of violence to and the co-opting of ¶ the judiciary. He now enjoys virtually total control over ¶ Zimbabweans' individual rights and the entire political ¶ system. R.W. Johnson, Mugabe’s Agents in Plot to Kill ¶ Opposition Chief, Sunday Times (London), June 10, 2001; ¶ International Commission of Jurists, Attacks on Justice 2002—¶ Zimbabwe, August 27, 2002, available at¶ http://www.icj.org/news.php3?id\_article=2695&lang=en (last ¶ visited Jan. 8, 2004). ¶ While Peru and Zimbabwe represent an extreme, the ¶ independence of the judiciary is under assault in less brazen ¶ ways in a variety of countries today. A highly troubling ¶ aspect of this trend is the fact that in many of these instances ¶ those perpetuating the assaults on the judiciary have pointed ¶ to the United States’ model to justify their actions. Indeed, ¶ many have specifically referenced the United States’ actions ¶ in detaining persons in Guantánamo Bay. ¶ For example, Rais Yatim, Malaysia's "de facto law ¶ minister" explicitly relied on the detentions at Guantánamo to ¶ justify Malaysia's detention of more than 70 suspected Islamic ¶ militants for over two years. Rais stated that Malyasia's ¶ detentions were "just like the process in Guantánamo," adding, ¶ "I put the equation with Guantánamo just to make it graphic to ¶ you that this is not simply a Malaysian style of doing things." ¶ Sean Yoong, "Malaysia Slams Criticism of Security Law ¶ Allowing Detention Without Trial," Associated Press, ¶ September 9, 2003 (available from Westlaw at 9/9/03 ¶ APWIRES 09:34:00). ¶ Similarly, when responding to a United States Government ¶ human rights report that listed rights violations in Namibia, ¶ Namibia's Information Permanent Secretary Mocks Shivute ¶ cited the Guantánamo Bay detentions, claiming that "the US ¶ government was the worst human rights violator in the world." ¶ BBC Monitoring, March 8, 2002, available at 2002 WL ¶ 15938703. ¶ Nor is this disturbing trend limited to these specific ¶ examples. At a recent conference held at the Carter Center in ¶ Atlanta, President Carter, specifically citing the Guantánamo ¶ Bay detentions, noted that the erosion of civil liberties in the ¶ United States has "given a blank check to nations who are ¶ inclined to violate human rights already." Doug Gross, ¶ "Carter: U.S. human rights missteps embolden foreign ¶ dictators," Associated Press Newswires, November 12, 2003 ¶ (available from Westlaw at 11/12/03 APWIRES 00:30:26). At ¶ the same conference, Professor Saad Ibrahim of the American ¶ University in Cairo (who was jailed for seven years after ¶ exposing fraud in the Egyptian election process) said, "Every ¶ dictator in the world is using what the United States has done ¶ under the Patriot Act . . . to justify their past violations of ¶ human rights and to declare a license to continue to violate ¶ human rights." Id.¶ Likewise, Shehu Sani, president of the Kaduna, Nigeriabased Civil Rights Congress, wrote in the International¶ Herald Tribune on September 15, 2003 that "[t]he insistence ¶ by the Bush administration on keeping Taliban and Al Quaeda ¶ captives in indefinite detention in Guantánamo Bay, Cuba, ¶ instead of in jails in the United States — and the White ¶ House's preference for military tribunals over regular courts ¶ — helps create a free license for tyranny in Africa. It helps ¶ justify Egypt's move to detain human rights campaigners as ¶ threats to national security, and does the same for similar ¶ measures by the governments of Ivory Coast, Cameroon and ¶ Burkina Faso." Available at¶ http://www.iht.com/ihtsearch.php?id=109927&owner=(IHT)&dat¶ e=20030121123259. ¶ In our uni-polar world, the United States obviously sets an ¶ important example on these issues. As reflected in the ¶ foundational documents of the United Nations and many other ¶ such agreements, the international community has consistently ¶ affirmed the value of an independent judiciary to the defense ¶ of universally recognized human rights. In the crucible of ¶ actual practice within nations, many have looked to the United ¶ States model when developing independent judiciaries with ¶ the ability to check executive power in the defense of ¶ individual rights. Yet others have justified abuses by ¶ reference to the conduct of the United States. Far more ¶ influential than the words of Montesquieu and Madison are ¶ the actions of the United States. This case starkly presents the ¶ question of which model this Court will set for the world. CONCLUSION ¶ Much of the world models itself after this country’s two ¶ hundred year old traditions — and still more on its day to day ¶ implementation and expression of those traditions. To say ¶ that a refusal to exercise jurisdiction in this case will have ¶ global implications is not mere rhetoric. Resting on this ¶ Court’s decision is not only the necessary role this Court has ¶ historically played in this country. Also at stake are the ¶ freedoms that many in emerging democracies around the globe ¶ seek to ensure for their peoples.

**Democracy’s on the brink --- consolidation solves global WMD conflict**

**Halperin 11** (Morton H., Senior Advisor – Open Society Institute and Senior Vice President of the Center for American Progress, “Unconventional Wisdom – Democracy is Still Worth Fighting For”, Foreign Policy, January / February, <http://www.foreignpolicy.com/articles/2011/01/02/unconventional_wisdom?page=0,11>)

As the United States struggles to wind down two wars and recover from a humbling financial crisis, realism is enjoying a renaissance. Afghanistan and Iraq bear scant resemblance to the democracies we were promised. The Treasury is broke. And America has a president, Barack Obama, who once compared his foreign-policy philosophy to the realism of theologian Reinhold Niebuhr: "There's serious evil in the world, and hardship and pain," Obama said during his 2008 campaign. "And we should be humble and modest in our belief we can eliminate those things." But one can take such words of wisdom to the extreme-as realists like former Secretary of State Henry Kissinger and writer Robert Kaplan sometimes do, arguing that the United States can't afford the risks inherent in supporting democracy and human rights around the world. Others, such as cultural historian Jacques Barzun, go even further, saying that America can't export democracy at all, "because it is not an ideology but a wayward historical development." Taken too far, such realist absolutism can be just as dangerous, and wrong, as neoconservative hubris. For there is one thing the neocons get right: As I argue in *The Democracy Advantage*, democratic governments are more likely than autocratic regimes to engage in conduct that advances U.S. interests and avoids situations that pose a threat to peace and security. Democratic states are more likely to develop and to avoid famines and economic collapse. They are also less likely to become failed states or suffer a civil war. Democratic states are also more likely to cooperate in dealing with security issues, such as terrorism and proliferation of weapons of mass destruction. As the bloody aftermath of the Iraq invasion painfully shows, democracy cannot be imposed from the outside by force or coercion. It must come from the people of a nation working to get on the path of democracy and then adopting the policies necessary to remain on that path. But we should be careful about overlearning the lessons of Iraq. In fact, the outside world can make an enormous difference in whether such efforts succeed. There are numerous examples-starting with Spain and Portugal and spreading to Eastern Europe, Latin America, and Asia-in which the struggle to establish democracy and advance human rights received critical support from multilateral bodies, including the United Nations, as well as from regional organizations, democratic governments, and private groups. It is very much in America's interest to provide such assistance now to new democracies, such as Indonesia, Liberia, and Nepal, and to stand with those advocating democracy in countries such as Belarus, Burma, and China. It will still be true that the United States will sometimes need to work with a nondemocratic regime to secure an immediate objective, such as use of a military base to support the U.S. mission in Afghanistan, or in the case of Russia, to sign an arms-control treaty. None of that, however, should come at the expense of speaking out in support of those struggling for their rights. Nor should we doubt that America would be more secure if they succeed.

### 1NC

#### Obama will hold off a vote on Iran sanctions now---PC’s key---failure destroys regional and global U.S. power and cred

Leverett 1/20 (Flynt Leverett, professor at Pennsylvania State University’s School of International Affairs and is a Visiting Scholar at Peking University’s School of International Studies, and Hillary Mann Leverett, Senior Professorial Lecturer at the American University in Washington, DC and a Visiting Scholar at Peking University in Beijing, 1/20/14, “Iran, Syria and the Tragicomedy of U.S. Foreign Policy,” http://goingtotehran.com/iran-syria-and-the-tragicomedy-of-u-s-foreign-policy)

Regarding President Obama’s ongoing struggle with the Senate over Iran policy, Hillary cautions against premature claims of “victory” for the Obama administration’s efforts to avert new sanctions legislation while the Joint Plan of Action is being implemented. She points out that “the foes of the Iran nuclear deal, of any kind of peace and conflict resolution in the Middle East writ large, are still very strong and formidable. For example, the annual AIPAC policy conference—a gathering here in Washington of over 10,000 people from all over the country, where they come to lobby congressmen and senators, especially on the Iran issue—that will be taking place in very early March. There’s still a lot that can be pushed and played here.” To be sure, President Obama and Secretary of State John Kerry “have put a lot of political capital on the line.” No other administration has so openly staked out its opposition to a piece of legislation or policy initiative favored by AIPAC and backed by a bipartisan majority on Capitol Hill since the 1980s, when the Reagan administration successfully defended its decision to sell AWACs planes to Saudi Arabia. But, Hillary notes, if the pro-Israel lobby is able to secure a vote on the new sanctions bill, and to sustain the promised veto of said bill by President Obama, “that would be such a dramatic blow to President Obama, and not just on his foreign policy agenda, but it would be devastating to his domestic agenda.” So Obama “has a tremendous amount to lose, and by no means is the fight anywhere near over.” Of course, to say that Obama has put a lot of political capital on the line over the sanctions issue begs the question of whether he is really prepared to spend the far larger amounts of capital that will be required to close a final nuclear deal with Tehran. As Hillary points out, if Obama were “really trying to lead this country on a much more constructive, positive trajectory after failed wars and invasions in Iraq and Afghanistan and Libya—Libya entirely on President Obama’s watch—[he] would be doing a lot more, rather than just giving these lukewarm talks, basically trying to continue to kiss up to major pro-Israel constituencies, and then trying to bring in some of political favors” on Capitol Hill. Compare Obama’s handling of Iran and other Middle East challenges to President Nixon’s orchestration of the American opening to China—including Nixon’s willingness to “break the crockery” of the pro-Taiwan lobby—and the inadequacy of Obama’s approach become glaringly apparent. And that, Hillary underscores, is why we wrote our book, Going to Tehran—because “we think it’s absolutely essential for President Obama to do what Nixon did and go to Tehran, as Nixon went to China,” for “the Middle East is the make-or-break point for the United States, not just in our foreign affairs but in our global economic power and what we’re able to do here at home. If we can’t get what we’re doing in the Middle East on a much better, more positive trajectory, not only will we see the loss of our power, credibility, and prestige in the Middle East, but we will see it globally.”

#### It’s a war powers fight that Obama wins – but failure commits us to Israeli strikes

**Merry 1/1** (Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy, “Obama may buck the Israel lobby on Iran”, 2014, Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.” For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House. With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto. It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement. However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control. Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.” While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.” That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars. That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### The plan’s a perceived loss – it saps capital and causes defections

Loomis 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

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

#### Causes Israel strikes

Perr 12/24 (Jon Perr 12/24/13, B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon, has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002). (Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran))

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Impact is nuclear war

**Reuveny** **10** (Rafael – professor in the School of Public and Environmental affairs at Indiana University, Unilateral strike on Iran could trigger world depression, p. http://www.indiana.edu/~spea/news/speaking\_out/reuveny\_on\_unilateral\_strike\_Iran.shtml)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond. A regional war Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony. Replaying Nixon’s nightmare Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons, but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### 1NC Turf War Frontline

#### Secrecy means Congress would be ineffective—no solvency

Stephen Dycus—1AC Author—10, Professor, Vermont Law School, 8/11/10, “Congress’s Role in Cyber Warfare,” <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf>

The National Security Act of 1947 23 showed Congress’s determination to exert some control over this nation’s intelligence apparatus. That determination was strengthened after the disclosure of widespread intelligence abuses by the CIA and other agencies.24¶ In 1991, in response to the Iran-Contra Affair, Congress adopted a measure directing the President to keep the congressional intelligence committees “fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity.”25 The term “intelligence activity” expressly includes “covert actions,”26 which additionally require a written finding by the President that they are “necessary to support identifiable foreign policy objectives of the United States and [are] important to the national security of the United States.”27 Intelligence activities are also understood to include “all activities that elements of the Intelligence Community are authorized to conduct pursuant to [Executive Order No. 12,333],” the executive charter for such activities.28 The “intelligence community” includes the Office of the Director of National Intelligence, CIA, NSA, other Defense Department intelligence components, and other federal intelligence elements,29 which are authorized to engage in, inter alia, intelligence collection and analysis and “activities to protect against international terrorism . . . and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents.”30 This broad mandate certainly encompasses many U.S. efforts to defend against cyber attack and to employ cyber weapons offensively. By this definition, most preparations for and conduct of cyber warfare should be reported to the intelligence committees as “intelligence activities.” It is significant that the reporting requirement in the 1991 law is not limited to agencies within the intelligence community. ¶ Yet this legislation provides no guarantee that Congress will receive the information it needs to play a meaningful role in the development or execution of cyber warfare policy. It is not known, for example, precisely what it means for the intelligence committees to be “fully and currently” informed, what kinds of intelligence activities are regarded as “significant” enough to report, or who decides.31 Other sections of the 1991 law call on all agencies involved in intelligence activities, not just the President, to keep the intelligence committees informed about those activities, but only “[t]o the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters.”32 The “due regard for” language might be invoked to keep Congress in the dark. ¶ Under the 1991 law, “covert actions,” those with respect to which “it is intended that the role of the United States Government will not be apparent or acknowledged publicly,”33 need only be reported to a small group of legislators known as the “Gang of Eight,”34 and then only in a “timely fashion,” a term not defined by statute.35 Characterization of U.S. planning and execution of electronic warfare as “covert” could enable reporting to the smaller group, making it more difficult for Congress to play a significant role.36 Moreover, any reporting might be delayed indefinitely.37

#### No reason cyber causes us to withdraw FORWARD DEPLOYMENT – the Kagan evidence says that is key.

#### Hegemony isn’t true – data’s on our side

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

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

#### You don’t solve – the 1AC didn’t get to a single piece of turfwar solvency ev

#### Military has backup for grids

Aimone 9-12 (Dr. Michael, Director of Business Enterprise Integration – Office of the Deputy Under Secretary of Defense (Installations and Environment), “Statement Before the House Committee on Homeland Security, Subcommittee on Cybersecurity, Infrastructure Protection and Security Technologies,” 2012, http://homeland.house.gov/sites/homeland.house.gov/files/Testimony%20-%20Aimone.pdf)

DoD’s facility energy strategy is also focused heavily on grid security in the name of mission assurance. Although the Department’s fixed installations traditionally served largely as a platform for training and deployment of forces, in recent years they have begun to provide direct support for combat operations, such as unmanned aerial vehicles (UAVs) flown in Afghanistan from fixed installations here in the United States. Our fixed installations also serve as staging platforms for humanitarian and homeland defense missions. These installations are largely dependent on a commercial power grid that is vulnerable to disruption due to aging infrastructure, weather-related events, and potential kinetic, cyber attack. In 2008, the Defense Science Board warned that DoD’s reliance on a fragile power grid to deliver electricity to its bases places critical missions at risk. 1 Standby Power Generation Currently, DoD ensures that it can continue mission critical activities on base largely through its fleet of on-site power generation equipment. This equipment is connected to essential mission systems and automatically operates in the event of a commercial grid outage. In addition, each installation has standby generators in storage for repositioning as required. Facility power production specialists ensure that the generators are primed and ready to work, and that they are maintained and fueled during an emergency. With careful maintenance these generators can bridge the gap for even a lengthy outage. As further back up to this installed equipment, DoD maintains a strategic stockpile of electrical power generators and support equipment that is kept in operational readiness. For example, during Hurricane Katrina, the Air Force transported more than 2 megawatts of specialized diesel generators from Florida, where they were stored, to Keesler Air Force Base in Mississippi, to support base recovery.

**Prefer our evidence—grid is actively improving**

Koerth-**Baker**, science editor – Boing Boing, columnist – NYT Magazine, electric grid expert, 8/3/**’12**

(Maggie, “Blackout: What's wrong with the American grid,” <http://boingboing.net/2012/08/03/blackout-whats-wrong-with-t.html>)

But this is about more than mere bad luck. The real causes of the 2003 blackout were fixable problems, **and** the good news is that, since then, **we’ve made great strides in fixing them.** The bad news, say some grid experts, is that we’re still not doing a great job of preparing our electric infrastructure for the future.¶ Let’s get one thing out of the way right up front: The North American electric grid is not one bad day away from the kind of catastrophic failures we saw in India this week. I’ve heard a lot of people speculating on this, but the folks who know the grid say that, while such a huge blackout is theoretically possible, it is also **extremely unlikely.** As Clark Gellings, a fellow at the Electric Power Research Institute put it, “An engineer will never say never,” but **you should definitely not** **assume** anything resembling **an imminent threat** at that scale. Remember, the blackouts this week cut power to half of all Indian electricity customers. Even the 2003 blackout—the largest blackout in North America ever—only affected about 15% of Americans.¶ We don’t know yet what, exactly, caused the Indian blackouts, but there are several key differences between their grid and our grid. India’s electricity is only weakly tied to the people who use it, Gellings told me. Most of the power plants are in the far north. Most of the population is in the far south. The power lines linking the two are neither robust nor numerous. That’s not a problem we have in North America.¶ Likewise, India has considerably more demand for electricity than it has supply. Even on a good day, there’s not enough electricity for all the people who want it, said Jeff Dagle, an engineer with the Pacific Northwest National Laboratory’s Advanced Power and Energy Systems research group. “They’re pushing their system much harder, to its limits,” he said. “If they have a problem, there’s less cushion to absorb it. Our system has rules that prevent us from dipping into our electric reserves on a day-to-day basis. So **we have reserve power for emergencies**.”

#### No internal link – you don’t solve private entity intentions

#### Circumvention -- Their 1AC Dycus evidence proves the plan doesn’t solve -

Dycus 10 (Professor Vermont Law School, “Congress’s Role in Cyber Warfare”, 8/11/2010, <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf>)

III. ALEGISLATIVE HAND ON THE CYBER WAR MOUSE Cyber warfare, as that term is used here, refers to conflicts that utilize cyber or electronic weapons either offensively or defensively, or both. Cyber weapons are currently employed offensively in kinetic warfare, for example, to suppress an enemy’s air defenses or disrupt its communications, or defensively to track enemy troop movements. These weapons might also be used offensively to disable an enemy’s cyber weaponry or defensively in response to an enemy attack, to prevent further aggression. The term “cybersecurity” might be understood to refer to defense against cyber attacks. “Cyber attack” suggests offensive use, but the label is inexact and might be misleading. A preemptive strike to ward off an imminent enemy attack is considered defensive. Digital espionage might be part of the preparation for an attack, or it might be perceived that way by the target, which might then be provoked to defend itself by responding with a preemptive attack, either cyber or kinetic. The important point here is that any use of cyber weapons, offensive or defensive, could have enormous consequences for the security and other interests of the United States.

#### Alt causes to the economy mean decline is inevitable now – they don’t have uniqueness that assumes no future attacks.

#### Economy will inevitably be low because of structural factors

Irwin 12 [Neil, Washington Post Columnist and the Economics Editor of Wonkblog; Each weekday morning his Econ Agenda column reports and explains the latest trends in economics, finance, and the policies that shape both, Citing a Report by Dave Reifschneider, William Wascher and David Wilcox, Members of the Federal Reserve Board, 2013, “The Great Recession May Have Crushed America’s Economic Potential,” http://www.washingtonpost.com/blogs/wonkblog/wp/2013/11/05/the-great-recession-may-have-crushed-americas-economic-potential/]

The paper offers a depressing portrait of where the economy stands nearly six years after the onset of recession, and amounts to a damning indictment of U.S. policymakers. Their upshot: The United States's long-term economic potential has been diminished by the fact that policymakers have not done more to put people back to work quickly. Our national economic potential is now a whopping 7 percent below where it was heading at the pre-2007 trajectory, the authors find.¶ As Dave Reifschneider, William Wascher and David Wilcox sum up in their abstract, “The recent financial crisis and ensuing recession appear to have put the productive capacity of the economy on a lower and shallower trajectory than the one that seemed to be in place prior to 2007.”¶ What seems to be happening, they argue, is that people who lost their jobs in the recession have now been out of work for years, leading their skills to atrophy and them to become less attached to the workforce. As those workers’ productive capacity diminishes, so does the total potential of the U.S. economy.¶ The authors argue that while the “natural” rate of unemployment — the proportion of joblessness in a fully healthy economy — has likely risen due to the recession, that effect should be dissipating. “We see the evidence of recent years as suggesting that the natural rate of unemployment may have moved up between ½ and 1½ percentage points since the onset of the recent recession,” they write. “However, the evidence also suggests that the factors leading to this increase have begun to reverse and that further increases in aggregate demand might therefore bring about further healing in the labor market.”¶ But beyond analyzing the economic situation in which the United States finds itself, the Fed staffers make an important argument worth considering for policymakers here and around the world.¶ There is a tendency to think of a nation’s “aggregate supply,” or potential output, as something that exists outside the realm of influence by short-term economic policy. The economic potential, after all, comes from the education of its people, the richness of its land, the quality of its machines — all things that a central banker can’t do much of anything to influence.¶ In other words, supply is “exogenous” to a policymaker’s economic model. But that may turn on its head in circumstances like the present. They write:¶ The implications for monetary policy may differ sharply from what is commonly presumed because much of the supply-side damage could be an endogenous response to weak aggregate demand. If so, then an activist monetary policy may be able to limit the amount of supply-side damage that occurs initially, and potentially may also help to reverse at a later stage such damage as does occur. By themselves, such considerations militate toward a more aggressive stance of policy and help to buttress the case for a highly aggressive policy response to a financial crisis and associated recession.¶ In other words, when there is weak demand and people remain out of work, the cyclical downturn can become a structural downturn. That means that policymakers should move particularly aggressively to keep that from happening.

#### Economic decline doesn’t cause war.

Morris Miller, Professor of Administration @ the University of Ottawa, ‘2K (Interdisciplinary Science Review, v 25 n4 2000 pingenta connect)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study under- taken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis – as measured in terms of inflation and negative growth – bore no relationship to the collapse of regimes ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

### 1NC I-Law Frontline

#### Plan doesn’t establish NEW rules for cyber – it doesn’t stop data collection which the Williams evidence says is key.

#### Cyberweapons are inev --- US restraint does nothing --- norm setting is utopian

James Lewis 12, Director of the Technology and Public Policy Program at the Center for Strategic and International Studies, “Benefits Are Great, and the Risks Exist Anyway,” Oct 17, NYT, http://www.nytimes.com/roomfordebate/2012/06/04/do-cyberattacks-on-iran-make-us-vulnerable-12/benefits-are-great-and-the-risks-exist-anyway

Nor do cyberattacks against Iran increase the risk of damaging cyberattacks against the United States. It is true that we are defenseless; efforts to make us safer are hamstrung by self-interest, ideology and the gridlock of American politics. But we are no more vulnerable today than we were the day before the news. If someone decides to attack us, they may cite Iran as precedent, but it will only be to justify a decision they had already made.¶ We could ask whether the United States creates more problems for itself when it makes public a new weapon while potential opponents keep it secret. Four other countries can launch sophisticated and damaging cyber attacks -- including China and Russia -- and plan to use them in warfare. Another 30 nations are acquiring cyber weapons, including Iran and North Korea.¶ There is a very old argument for disarmament that holds that if the United States were to renounce some weapons -- usually nuclear weapons -- the world would be a better place. This utopianism has a revered place in American political thinking, but when humans invent weapons they rarely give them up, especially useful weapons whose components are easy to acquire. Cyberattack is now part of warfare, no different from any other weapon. The publicity around Stuxnet may complicate U.S. efforts to get international rules for the use of cyberattack, but the White House decided that tampering with Iran’s nuclear program was more important than possible risk to slow-moving negotiations.

#### No risk of cyber attack and even if it happens no impact

Douglas Birch 10-1, former foreign correspondent for the Associated Press and the Baltimore Sun who has written extensively on technology and public policy, 10/1/12, “Forget Revolution,” Foreign Policy, http://www.foreignpolicy.com/articles/2012/10/01/forget\_revolution?page=full

Government officials sometimes describe a kind of Hieronymus Bosch landscape when warning of the possibility of a cyber attack on the electric grid. Imagine, if you will, that the United States is blindsided by an epic hack that interrupts power for much of the Midwest and mid-Atlantic for more than a week, switching off the lights, traffic signals, computers, water pumps, and air conditioners in millions of homes, businesses, and government offices. Americans swelter in the dark. Chaos reigns! ¶ Here's another nightmare scenario: An electric grid that serves two-thirds of a billion people suddenly fails in a developing, nuclear-armed country with a rich history of ethnic and religious conflict. Rail transportation is shut down, cutting off travel to large swathes of the country, while many miners are trapped underground. ¶ Blackouts on this scale conjure images of civil unrest, overwhelmed police, crippled hospitals, darkened military bases, the gravely injured in the back of ambulances stuck in traffic jams. ¶ The specter of what Defense Secretary Leon Panetta has called a "digital Pearl Harbor" led to the creation of U.S. Cyber Command, which is tasked with developing both offensive and defensive cyber warfare capabilities, and prompted FBI Director Robert Mueller to warn in March that cyber attacks would soon be "the number one threat to our country." Similar concerns inspired both the Democrats and Republicans to sound the alarm about the cyber threat in their party platforms. ¶ But are cyber attacks really a clear and present danger to society's critical life support systems, capable of inflicting thousands of casualties? Or has fear of full-blown cybergeddon at the hands of America's enemies become just another feverish national obsession -- another of the long, dark shadows of the 9/11 attacks? ¶ Worries about a large-scale, devastating cyber attack on the United States date back several decades, but escalatedfollowing attacks on Estonian government and media websites during a diplomatic conflict with Russia in 2007. That digital ambush was followed by a cyber attack on Georgian websites a year later in the run-up to the brief shooting war between Tbilisi and Moscow, as well as allegations of a colossal, ongoing cyber espionage campaign against the United States by hackers linked to the Chinese army. ¶ Much of the concern has focused on potential attacks on the U.S. electrical grid. "If I were an attacker and I wanted to do strategic damage to the United States...I probably would sack electric power on the U.S. East Coast, maybe the West Coast, and attempt to cause a cascading effect," retired Admiral Mike McConnell said in a 2010 interview with CBS's 60 Minutes. ¶ But the scenarios sketched out above are not solely the realm of fantasy. This summer, the United States and India were hit by two massive electrical outages -- caused not by ninja cyber assault teams but by force majeure. And, for most people anyway, the results were less terrifying than imagined. ¶ First, the freak "derecho" storm that barreled across a heavily-populated swath of the eastern United States on the afternoon of June 29 knocked down trees that crushed cars, bashed holes in roofs, blocked roads, and sliced through power lines. ¶ According to an August report by the U.S. Department of Energy, 4.2 million homes and businesses lost power as a result of the storm, with the blackout stretching across 11 states and the District of Columbia. More than 1 million customers were still without power five days later, and in some areas power wasn't restored for 10 days. Reuters put the death tollat 23 people as of July 5, all killed by storms or heat stroke. ¶ The second incident occurred in late July, when 670 million people in northern India, or about 10 percent of the world's population, lost power in the largest blackout in history. The failure of this huge chunk of India's electric grid was attributed to higher-than-normal demand due to late monsoon rains, which led farmers to use more electricity in order to draw water from wells. Indian officials told the media there were no reports of deaths directly linked to the blackouts. ¶ But this cataclysmic event didn't cause widespread chaos in India -- indeed, for some, it didn't even interrupt their daily routine. "[M]any people in major cities barely noticed the disruption because localized blackouts are so common that many businesses, hospitals, offices and middle-class homes have backup diesel generators," the New York Timesreported. ¶ The most important thing about both events is what didn't happen. Planes didn't fall out of the sky. Governments didn't collapse. Thousands of people weren't killed. Despite disruption and delay, harried public officials, emergency workers, and beleaguered publics mostly muddled through. ¶ The summer's blackouts strongly suggest that a cyber weapon that took down an electric grid even for several days could turn out to be little more than a weapon of mass inconvenience.¶ That doesn't mean the United States can relax. James Lewis, director of the technology program at the Center for Strategic and International Studies, believes that hackers threaten the security of U.S. utilities and industries, and recently penned an op-ed for the New York Times calling the United States "defenseless" to a cyber-assault. But he told Foreign Policy the recent derecho showed that even a large-scale blackout would not necessarily have catastrophic consequences.

#### Uncontrollability of cyber-war is a neg warrant --- means countries won’t use them

Thomas P.M. Barnett 13, special assistant for strategic futures in the U.S. Defense Department's Office of Force Transformation from 2001 to 2003, is chief analyst for Wikistrat, March/April 2013, “Think Again: The Pentagon,” Foreign Policy, http://www.foreignpolicy.com/articles/2013/03/04/the\_pentagon?page=full

As for cyber serving as a stand-alone war-fifighting domain, there you'll find the debates no less theological in their intensity. After serving as senior managing director for half a dozen years at a software firm that specializes in securing supply chains, I'm deeply skeptical. Given the uncontrollable nature of cyberweapons (see: Stuxnet's many permutations), I view them as the 21st century's version of chemical weapons -- nice to have, but hard to use. Another way to look at it is to simply call a spade a spade: Cyberwarfare is nothing more than espionage and sabotage updated for the digital era. Whatever cyberwar turns out to be in the national security realm, it will always be dwarfed by the industrial variants -- think cyberthieves, not cyberwarriors. But you wouldn't know it from the panicky warnings from former Defense Secretary Leon Panetta and the generals about the imminent threat of a "cyber Pearl Harbor."¶ Please remember amid all this frenetic scaremongering that the Pentagon is never more frightened about our collective future than when it's desperately uncertain about its own. Given the rising health-care costs associated with America's aging population and the never-ending dysfunction in Washington, we should expect to be bombarded with frightening scenarios of planetary doom for the next decade or two. None of this bureaucratic chattering will bear any resemblance to global trends, which demonstrate that wars have grown increasingly infrequent, shorter in duration, and diminished in lethality. But you won't hear that from the next-warriors on the Potomac.

#### Plan doesn’t make other countries MODEL or LISTEN to LOAC – means it’s still ineffective.

#### PMC’s jack the LOAC

Daniel P. Ridlon, A.F. Captain, JD Harvard, 2008, “CONTRACTORS OR ILLEGAL COMBATANTS? THE STATUS OF ARMED CONTRACTORS IN IRAQ,” 62 A.F. L. Rev. 199, ln

In addition to legal liability, the United States' employment of PMF personnel in future conflicts has potential negative policy ramifications. Employing PMF personnel who are potentially viewed as illegal combatants may undermine the public image that the United States conducts its military operations in accordance with the laws of war. This would not only serve as a public relations problem for the United States, but it could also be used as justification for other nations or non-state actors to violate the laws of war, especially if those states or groups are engaged in a conflict against the United States. In the end, the employment of illegal combatants could reduce prisoner of war [\*253] protections afforded to United States military personnel if they are captured.

#### Goldstone report destroys the LOAC

Michael A. Newton 10, Law Prof @ Vanderbilt, “LAWFARE AND THE ISRAELI-PALESTINE PREDICAMENT: Illustrating Illegitimate Lawfare,” 43 Case W. Res. J. Int'l L. 255, ln

After detailing the content of the leaflet and radio broadcast warnings, the Report concluded that the warnings did not comply with the obligations of Protocol I because Israeli forces were presumed to have had the capability to issue more effective warnings, civilians in Gaza were uncertain about whether and where to go for safety, and some places of shelter were [\*277] struck after the warnings were issued. n91 Thus, despite giving more extensive warnings to the civilian population than in any other conflict in the long history of war, the efforts of the Israeli attackers were equated with attacks intentionally directed against the civilian population. This approach eviscerates the appropriate margin of appreciation that commanders who respect the law and endeavor to enforce its constraints should be entitled to rely upon--and which the law itself provides. There is simply no legal precedent for taking the position that the civilians actually respond to such warnings, particularly in circumstances such as Gaza where the civilian population is intimidated and often abused by an enemy that seeks to protect itself by deliberately intermingling with the innocent civilian population. The newly minted Goldstone standard for warning the civilian population would displace operational initiative from the commander in the attack to the defender who it must be remembered commits a war crime by intentionally commingling military objectives with protected civilians. This aspect of the report would itself serve to amend the entire fabric of the textual rules that currently regulate offensive uses of force in the midst of armed conflict.¶ This, then, is the essence of illegitimate lawfare. Words matter--particularly when they are charged with legal significance and purport to convey legal rights and obligations. When purported legal "developments" actually undermine the ends of the law, they are illegitimate and inappropriate. Legal movements that foreseeably serve to discredit the law of armed conflict even further in the eyes of a cynical world actually undermine its utility. Lawfare that creates uncertainty over the application of previously clear rules must be opposed vigorously because it does perhaps irrevocable harm to the fabric of the laws and customs of war. Illegitimate lawfare will marginalize the precepts of humanitarian law if left unchecked, and may serve to create strong disincentives to its application and enforcement. Knowledge of the law and an accompanying professional awareness that the law is binding remains central to the professional ethos of military forces around our planet irrespective of the reality that incomplete compliance with the jus in bello remains the regrettable norm. Hence, it logically follows that any efforts to distort and politicize fundamental principles of international law cannot be meekly accepted as inevitable developments.

#### Links not reverse causal – there’s no reason plan enables us to pressure china, it’s only one issue. Your belk and noyes evidence does NOT make a claim to this.

#### Soft power fails

Adelman 11---Master’s and PhD from Georgetown’s School. Frmr director of the U.S. Arms Control and Disarmament Agency, former Ambassador to the UN, and former member of Pentagon's Defense Policy Board (6/18/11, Ken, Not-So-Smart Power, http://www.foreignpolicy.com/articles/2011/04/18/not\_so\_smart\_power)

I didn't hear of similar activities from soft-power agencies -- past diplomats, USAID directors, agricultural-aid types -- with their Egyptian counterparts. The only diplomatic initiative that got any public attention involved the gifted former U.S. ambassador to Egypt, Frank Wisner, who was suddenly dispatched to Cairo at Clinton's request. But he, or she, made a real hash of it, for just as Obama had finally realized that Mubarak must go, Wisner publicly announced that Mubarak must stay -- at least for a while, to provide stability in any transition. Not exactly a case study in smart power. To his credit, even Nye admits that the line between soft and hard power is a blurry one, though he generally equates the former with the State Department and USAID budgets and the latter with the Pentagon. Yet the distinction breaks down pretty quickly, especially when you consider that many U.S. military activities have boosted America's reputation and enhanced its influence abroad -- more so than any diplomatic or U.S. foreign-aid event. The U.S. Navy's quick, effective reaction to the 2004 Indian Ocean tsunami, its timely assistance to Cyclone Nargis in Burma, its relief from awful flooding in Pakistan, and now its efforts in Japan have all been superb. What case studies from soft-power budgets that Joe Nye so desperately wants maintained could he use in his Kennedy School of Government classes to match these from the hard-power Pentagon budget?¶ Moreover, America's prime soft-power agency may be too soft to be effective. Let's recall: The State Department agreed to the Mubarak government's request for its approval before any U.S. democracy programs for Egypt got launched. To put it simply, the soft-power agency consented that anti-dictator programs appropriated by the U.S. Congress first get approved by that dictator.¶ And recent Washington Post editorials have complained about the State Department being unable, or unwilling, to spend allocated funds on an effective freedom agenda. Its Feb. 5, 2011, editorial, for instance, included this astonishing fact: "Congress allocated $30 million in the fiscal 2010 budget for the State Department to fund Internet freedom. But 16 months later, none of the funds have been allocated." What's not to like in such a mission?¶ The State Department has been reluctant, if not resistant, in helping modern-day freedom fighters in Iran, Libya, and Syria. This seems a no-brainer, as they're all places of need. There should be none of the usual fears of offending the host government, because the governments of these three countries couldn't be any more hostile to the United States or more ferocious toward their own people than they are now.¶ Besides resting on soft assumptions, emphasis on soft power may lead to soft thinking. Take Clinton's hallmark "three Ds" of defense, diplomacy, and development. While Americans do defense and diplomacy, they don't do development well. The United States can't be held responsible for another country doing what's needed to develop. By now, there's a checklist of how countries can go from poverty to prosperity -- low taxes, private property protected by law, restrained and limited government, solid currency, modern infrastructure, and attacks on corruption. But the State Department simply can't do much to ensure these elements are done well.¶ I wish to end on a positive note, especially because Joseph Nye is such a fine person. He's contributed enormously to the United States, always asking hard questions on conventional thinking. He surely would welcome the same on today's fashionable thinking.¶ All this may boil down to a big difference. I've come to believe that liberals focus primarily on intentions, while conservatives focus more on results. No doubt the soft-power goals of the State Department and USAID on diplomacy, foreign aid, exchange programs, and the like seem wonderful. They're peaceful, caring, intercultural, and so on. They signal the right intentions.¶ The hard-power association with Pentagon budgets, weapons, and soldiers seems quite contrary. They signal the wrong intentions. But looking at the actual results of soft power versus hard power may yield results that make today's fashionable thinking seem soft, if not altogether squishy.

#### Zero solvency - No reason other countries suddenly WANT to do international climate agreements.

#### No impact to warming

Taylor 117/27/2011 [James Taylor, senior fellow for environment policy at The Heartland Institute and managing editor of Environment & Climate News “New NASA Data Blow Gaping Hole In Global Warming Alarmism,” http://www.forbes.com/sites/jamestaylor/2011/07/27/new-nasa-data-blow-gaping-hold-in-global-warming-alarmism/]

NASA satellite data from the years 2000 through 2011 show the Earth’s atmosphere is allowing far more heat to be released into space than alarmist computer models have predicted, reports a new study in the peer-reviewed science journal Remote Sensing. The study indicates far less future global warming will occur than United Nations computer models have predicted, and supports prior studies indicating increases in atmospheric carbon dioxide trap far less heat than alarmists have claimed. Study co-author Dr. Roy Spencer, a principal research scientist at the University of Alabama in Huntsville and U.S. Science Team Leader for the Advanced Microwave Scanning Radiometer flying on NASA’s Aqua satellite, reports that real-world data from NASA’s Terra satellite contradict multiple assumptions fed into alarmist computer models. “The satellite observations suggest there is much more energy lost to space during and after warming than the climate models show,” Spencer said in a July 26 University of Alabama press release. “There is a huge discrepancy between the data and the forecasts that is especially big over the oceans.” In addition to finding that far less heat is being trapped than alarmist computer models have predicted, the NASA satellite data show the atmosphere begins shedding heat into space long before United Nations computer models predicted. The new findings are extremely important and should dramatically alter the global warming debate. Scientists on all sides of the global warming debate are in general agreement about how much heat is being directly trapped by human emissions of carbon dioxide (the answer is “not much”). However, the single most important issue in the global warming debate is whether carbon dioxide emissions will indirectly trap far more heat by causing large increases in atmospheric humidity and cirrus clouds. Alarmist computer models assume human carbon dioxide emissions indirectly cause substantial increases in atmospheric humidity and cirrus clouds (each of which are very effective at trapping heat), but real-world data have long shown that carbon dioxide emissions are not causing as much atmospheric humidity and cirrus clouds as the alarmist computer models have predicted. The new NASA Terra satellite data are consistent with long-term NOAA and NASA data indicating atmospheric humidity and cirrus clouds are not increasing in the manner predicted by alarmist computer models. The Terra satellite data also support data collected by NASA’s ERBS satellite showing far more longwave radiation (and thus, heat) escaped into space between 1985 and 1999 than alarmist computer models had predicted. Together, the NASA ERBS and Terra satellite data show that for 25 years and counting, carbon dioxide emissions have directly and indirectly trapped far less heat than alarmist computer models have predicted. In short, the central premise of alarmist global warming theory is that carbon dioxide emissions should be directly and indirectly trapping a certain amount of heat in the earth’s atmosphere and preventing it from escaping into space. Real-world measurements, however, show far less heat is being trapped in the earth’s atmosphere than the alarmist computer models predict, and far more heat is escaping into space than the alarmist computer models predict. When objective NASA satellite data, reported in a peer-reviewed scientific journal, show a “huge discrepancy” between alarmist climate models and real-world facts, climate scientists, the media and our elected officials would be wise to take notice. Whether or not they do so will tell us a great deal about how honest the purveyors of global warming alarmism truly are.

#### USA can’t solve agreements.

Schreurs ’12 [Miranda A. Schreurs, Director of the Environmental Policy Research Centre, Free University of Berlin, "Breaking the impasse in the international climate negotiations: The potential of green technologies," Energy Policy 48, September 2012, pp. 5-12, Elsevier]

 The Durban outcome has kept the international negotiation process alive, but does not reﬂect the urgency of the problem at hand. That no post-Kyoto agreement is expected to enter into force until 2020 and the content of the agreement still needs to be developed also raises the question of whether the international community will be able to put a break on rising greenhouse gas emissions, let alone reduce them on the order that will be necessary to stay within the 1.5 to 2.0 degree Centrigrade temperature goal. The general scientiﬁc consensus is that if the rise in greenhouse gases is not halted by 2020 and then reduced on the order of 50% below 1990 levels by 2050, then it will be next to impossible to maintain the rise in greenhouse gases to within the 2 degrees Centigrade range. One very major challenge to the future agreement is the domestic political situation in the United States, which makes passage of national climate legislation, let alone ratiﬁcation of a global climate agreement highly unlikely in the near future. Already in Cancun, Japan made it clear that it opposes a second phase for the Kyoto Protocol. Yoshito Sengoku, Japan’s Chief Cabinet Secretary, announced that Japan would ‘‘sternly oppose debate for extending the Kyoto Protocol into a second phase which is unfair and ineffective.’’ (United Press International (UPI), 2010; MOFA, 2010). With its rapidly rising greenhouse gas emissions tied to the extraction of oil from tar sands in Alberta, Canada has pulled out of the agreement. Also problematic is the resistance of many developing countries to the establishment of binding emission reduction targets and timetables. India strongly pushed the perspective of per capita equity arguing that it should not be held captive by a problem largely caused by other countries. With its low per capita greenhouse gas emission levels as a result of high levels of poverty, India will be reluctant to accept commitments that could affect its economic growth perspectives.

#### Single instances of action do not change perception

**Fettweis** **8** (Christopher – professor of political science at Tulane, Credibility and the War on Terror, Political Science Quarterly, Winter)

Since Vietnam, scholars have been generally unable to identify cases in which high credibility helped the United States achieve its goals. The shortterm aftermath of the Cuban Missile Crisis, for example, did not include a string of Soviet reversals, or the kind of benign bandwagoning with the West that deterrence theorists would have expected. In fact, the perceived reversal in Cuba seemed to harden Soviet resolve. As the crisis was drawing to a close, Soviet diplomat Vasily Kuznetsov angrily told his counterpart, "You Americans will never be able to do this to us again."37 Kissinger commented in his memoirs that "the Soviet Union thereupon launched itself on a determined, systematic, and long-term program of expanding all categories of its military power .... The 1962 Cuban crisis was thus a historic turning point-but not for the reason some Americans complacently supposed."38 The reassertion of the credibility of the United States, which was done at the brink of nuclear war, had few long-lasting benefits. The Soviets seemed to learn the wrong lesson. There is actually scant evidence that other states ever learn the right lessons. Cold War history contains little reason to believe that the credibility of the superpowers had very much effect on their ability to influence others. Over the last decade, a series of major scholarly studies have cast further doubt upon the fundamental assumption of interdependence across foreign policy actions. Employing methods borrowed from social psychology rather than the economics-based models commonly employed by deterrence theorists, Jonathan Mercer argued that threats are far more independent than is commonly believed and, therefore, that reputations are not likely to be formed on the basis of individual actions.39 While policymakers may feel that their decisions send messages about their basic dispositions to others, most of the evidence from social psychology suggests otherwise. Groups tend to interpret the actions of their rivals as situational, dependent upon the constraints of place and time. Therefore, they are not likely to form lasting impressions of irresolution from single, independent events. Mercer argued that the interdependence assumption had been accepted on faith, and rarely put to a coherent test; when it was, it almost inevitably failed.40

#### Snowden tanked US credibility

Parisella 13 (John Parisella is a contributing blogger to AQ Online. He is the former Québec delegate general in New York and currently an invited professor at University of Montréal’s International Relations Center, The Americas Quarterly, June 27, 2013, "The Effect of Edward Snowden-A Canadian Perspective", http://www.americasquarterly.org/content/effect-edward-snowden-canadian-perspective)

To some, former CIA and National Security Administration (NSA) employee Edward Snowden is seen as a classic whistleblower, who divulged government secrets that contradict the U.S. Constitution and its 4th amendment. Many who espouse his view—on both the left and right—have applauded his courage and regard him as a hero. To others—especially within the U.S. political class—he is now considered a charged felon, who has willingly pursued a plan to embarrass his government, and in so doing, has breached matters of national security and made the United States less safe. His weekend flight from Hong Kong to Russia may lead some to go as far as to label him a “traitor”. Which is it—hero, felon or traitor? It is too early to answer this. But the longer the situation drags on, the more damage it will inflict on the reputation of the United States on the world stage. The 4th amendment of the U.S. Constitution sets guidelines to protect individual privacy. Even in matters of national security, we are told that due process must be followed. NSA programs, including the ones covering telephone records as well as internet activity that Snowden denounced, must be subjected to safeguards that protect the right to privacy. President Barack Obama has since justified these NSA programs as the necessary balance between privacy and security in this post-9-11 world. While his administration has been careful in its choice of vocabulary, it has decided to charge Snowden with contravening the Espionage Act. The spectacle of the strongest power on earth chasing Snowden around the globe is not reassuring to those who believe in the value of U.S. diplomacy, U.S. intelligence capacity or U.S. military might. The ease with which Snowden accessed sensitive material and subjected his government to this embarrassing game of “cat and mouse” is also not comforting to those who count on U.S. intelligence forces to keep them safe. Clearly, at the outset, the initial effect of Snowden’s action was to spark a legitimate debate about privacy, security and the importance of the 4th amendment. Libertarian politicians like Rand Paul did not condemn Snowden outright. Snowden also has significant support in progressive circles. Others, like influential Democratic Senator Diane Feinstein and Republican Congressman Mike Rogers—normally on opposite sides, argued that maintaining national security and keeping America safe requires measures that could affect some privacy issues. Together, however, they have vehemently condemned Snowden’s actions .The flight to Russia may have deviated what was becoming a necessary debate in a democracy from matters of substance to theatrics. Snowden detractors refer to another famous whistleblower incident: that of Daniel Ellsberg and the release of the Pentagon papers, which gradually led to the questioning of the Vietnam War. Unlike Snowden, they argue, Ellsberg stayed in the U.S. and faced the justice system. In contrast, Snowden’s behavior, which has been backed by some advocacy journalists such as Glen Greenwald of The Guardian and Wikileaks, seems set on evading the U.S. justice system. The polemics around Snowden’s whereabouts seem to confuse the nature of the conversation America should be having at this time in its history. In the meantime, The United States’ image is not improving around the world. Its government seems hesitant and vulnerable. The ‘soft power’ strengths of the U.S. are being questioned. Countries such as China and Russia, with poor human rights records, are openly defying the wishes of the world’s oldest and strongest democracy, and its rule of law. At the end of the day, the privacy versus security debate is rapidly becoming a secondary issue, and this entire episode is turning into a zero-sum game for the United States where no individual or principle wins the day. And this may well be the unintended consequence of Edward Snowden’s actions.

#### Can’t solve norms

**Lewis 11, Senior Fellow at CSIS** (James Andrew, Confidence-building and international agreement in cybersecurity, citizenlab.org/cybernorms2012/Lewis2011.pdf)

Obstacles to reaching a multilateral agreement

The immense utility of cyber action will shape any international agreement on cybersecurity. ¶ States will not give up this new tool for state power. Cyber attack is cheap and offers strategic ¶ advantage. First, the importance of information superiority in warfare and the ability to gain ¶ real military advantage from the use of information assets makes digital infrastructures too ¶ valuable a target to be declared off limits or for cyber attacks to be renounced. The necessary ¶ technologies are either commercial or easily derived from widely available commercial ¶ products—a laptop computer, an internet connection and a few computer programs. We ¶ cannot control the “precursors” for assembling these “weapons”. They are cheap, small, ¶ portable, easy to conceal and, for sophisticated programmers in or out of government, easy ¶ to construct. Special purpose tools for cyber attack are widely available on thriving cybercrime ¶ black markets. It is unlikely that any state will renounce the use of cyber attacks. ¶ Nor would a treaty that excludes certain targets from cyber attack make sense. Existing laws ¶ of war already define safeguards and limitations on (but do not ban) attacks on civilian targets. ¶ We cannot expect more for cyberspace. An alternate approach could be based on nonproliferation, where states developed multilateral norms that define responsible behaviour. ¶ The simplest norm would extend existing law and practice to say that a state is responsible for ¶ the behaviour of those on its territory—this would constrain the use of proxies and “patriotic” ¶ hackers.¶ Second, action in cyberspace has been an immense boon to espionage. The close linkage ¶ to espionage makes states reluctant to discuss or even admit they possess cyber capabilities, ¶ and this linkage also makes it unlikely that they will agree to “ban” first use. A “no first use” ¶ commitment could require states to renounce cyber espionage—something they are unlikely ¶ to do. Since the techniques of attack and espionage are similar, asking for a commitment ¶ not to develop or use cyber tools for penetration of opponent networks is really asking for a ¶ commitment not to spy. A “no first use” commitment could even be destabilizing if a victim ¶ were to misinterpret an instance of cyber espionage as an attack. four l 2011¶ 58¶ Confronting cyberconflict¶ The perceived difficulty of attribution of an attack may encourage some states to believe that ¶ they can successfully engage in covert cyber action while evading responsibility. A covert ¶ attack where the identity of the attacker is unknown has much less political risk. In addition, ¶ mercenaries (usually cybercriminals recruited by a state) can launch sophisticated attacks, ¶ providing an additional degree of deniability. The difficulty of attribution is often overstated, ¶ as it is increasingly possible in many cyber incidents to determine who is responsible using ¶ forensic techniques or active intelligence measures, but the perceived attribution problem ¶ increases the temptation to use cyber attack.¶ These problems mean that approaches that seek to limit cyber attack through multilateral ¶ agreement on technological constraints face intrinsic and potentially insurmountable ¶ difficulties. Cyber attack is a behaviour rather than a technology. Cyberconflict is shaped ¶ by covertness, ease of acquisition and uncertainty, and a legally binding convention that ¶ depends upon renouncing use, restricting technology, or upon verification of compliance is ¶ an unworkable approach for reducing the risk to international security from cyber attacks. An ¶ effort to secure an overarching cybersecurity agreement or treaty that attempted to address ¶ the full range of cybersecurity issues would be impractical. ¶ An incremental approach¶ Agreements to reduce the possibility of misinterpretation, escalation or unintended ¶ consequences in cyberconflict are a legitimate subject for international agreement and would ¶ improve international security. Just as states feel a degree of constraint from norms and ¶ agreements on non-proliferation, establishing explicit international norms for behaviour in ¶ cyberspace would affect political decisions on the potential risks and costs of cyber attack. The ¶ effect of globalization—the deep economic interconnection among states—has if anything ¶ increased the need for cooperation among states. ¶ The creation of norms for responsible state behaviour in cyberspace, the expansion of ¶ common understandings on the application of international law to cyberconflict, and the ¶ development of assurances on the use of cyber attacks would increase stability and reduce ¶ the risks of miscalculation or escalation. The single most important norm for multilateral ¶ agreement might be a norm that establishes state responsibility for the actions of its private ¶ citizens—such a norm could make it more difficult for states to tacitly encourage proxies by ¶ ignoring them or denying involvement with their actions. ¶ However, even simple norms face serious opposition. Conflicting political agendas, covert ¶ military actions, espionage and competition for global influence form the context for ¶ international discussion of cybersecurity. While there is little or no support for the idea of a ¶ treaty, and while international efforts now focus on a norms-based approach, the level of ¶ distrust among powerful states is too high for easy agreement on norms. 59¶ Confidence-building and international agreement in cybersecurity¶ Disparate values and deep distrust shape the environment for negotiation. Fundamental ¶ differences over values, despite formal acceptance of universal human rights, means that ¶ the initial set of norms likely to be acceptable to many states is limited. Ultimately, increased ¶ stability and security in cyberspace will require common understandings among states on ¶ their national responsibilities, on how the laws of war apply, where restraint in the use of the ¶ new military capability is possible, and where red lines or thresholds for escalation might exist. ¶ But there is too much distrust among competitors to move immediately towards global norms ¶ for cybersecurity.

# 2NC Round 4

## Politics

### Impact – 2NC

#### Strikes trigger biological warfare and draw in Russia and China

Morgan 9 (Dennis Ray Morgan, Hankuk University of Foreign Studies, Yongin Campus - South Korea, Futures, Volume 41, Issue 10, December 2009, Pages 683-693)

This scenario has gained even more plausibility since a January 2007 Sunday Times report [13] of an Israeli intelligence leak that Israel was considering a strike against Iran, using low-yield bunker busting nukes to destroy Iran’s supposedly secret underground nuclear facilities. In Moore’s scenario, non-nuclear neighboring countries would then respond with conventional rockets and chemical, biological and radiological weapons. Israel then would retaliate with nuclear strikes on several countries, including a pre-emptive strike against Pakistan, who then retaliates with an attack not only on Israel butpre-emptively striking India as well. Israel then initiates the ‘‘Samson option’’ with attacks on other Muslim countries, Russia, and possibly the ‘‘anti-Semitic’’ cities of Europe. At that point, all-out nuclear war ensues as the U.S. retaliates with nuclear attacks on Russia and possibly on China as well.11

#### Extinction

Sandberg 8 (Anders Sandberg, is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University; Jason G. Matheny, PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health and special consultant to the Center for Biosecurity at the University of Pittsburgh Medical Center; Milan M. Ćirković, senior research associate at the Astronomical Observatory of Belgrade and assistant professor of physics at the University of Novi Sad in Serbia and Montenegro, 9/8/8, “How can we reduce the risk of human extinction?,” Bulletin of the Atomic Scientists,<http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction>)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

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

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

The American people should know that pending right now in Congress is a bipartisan bill that would virtually commit the United States to go to war against Iran if Israel attacks the Islamic Republic. “The bill outsources any decision about resort to military action to the government of Israel,” Columbia University Iran expert Gary Sick wrote to Sen. Chuck Schumer (D-NY) in protest, one of the bill’s principal sponsors. The mind boggles at the thought that Congress would let a foreign government decide when America goes to war, so here is the language (PDF): If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military and economic support to the Government of Israel in its defense of its territory, people and existence. This section is legally nonbinding, but given the clout of the bill’s chief supporter outside of Congress — the American-Israel Public Affairs Committee (AIPAC [PDF]), leader of the pro-Israel lobby — that is a mere formality. Since AIPAC wants this bill passed, it follows that so does the government of Israeli Prime Minister Benjamin Netanyahu, who opposes American negotiations with Iran and has repeatedly threatened to attack the Islamic Republic. Against all evidence, Netanyahu insists the purpose of Iran’s nuclear program is to build a weapon with which to attack Israel. Iran says its facilities, which are routinely inspected, are for peaceful civilian purposes: the generation of electricity and the production of medical isotopes. The bill, whose other principal sponsors are Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL), has a total of 26 Senate cosponsors. If it passes when the Senate reconvenes in January, it could provoke a historic conflict between Congress and President Obama, whose administration is engaged in negotiations with Iran at this time. Aside from declaring that the U.S. government should assist Israel if it attacks Iran, the bill would also impose new economic sanctions on the Iranian people. Obama has asked the Senate not to impose additional sanctions while his administration and five other governments are negotiating with Iran on a permanent settlement of the nuclear issue. A six-month interim agreement is now in force, one provision of which prohibits new sanctions on Iran. “The [Menendez-Schumer-Kirk] bill allows Obama to waive the new sanctions during the current talks by certifying every 30 days that Iran is complying with the Geneva deal and negotiating in good faith on a final agreement,” Ali Gharib writes at Foreign Policy magazine. That would effectively give Congress the power to undermine negotiations. As Iran’s foreign minister, Javad Zarif, told Time magazine, if Congress imposes new sanctions, even if they are delayed for six months, “The entire deal is dead. We do not like to negotiate under duress.” Clearly, the bill is designed to destroy the talks with Iran, which is bending over backward to demonstrate that its nuclear program has no military aims.

### 2NC AT: Stalled

#### New conference means flare-up likely

Collinson 1/29 (Stephen, “Obama repels new Iran sanctions push... for now”, 2014, http://news.yahoo.com/obama-repels-iran-sanctions-push-now-032127269.html)

Washington (AFP) - President Barack Obama appears to have prevailed, for now, in a campaign to stop Congress from imposing new sanctions on Iran he fears could derail nuclear diplomacy. Several Democratic senators who previously backed a bipartisan sanctions bill publicly stepped back after Obama threatened a veto during his State of the Union address Tuesday. Several sources familiar with behind-the-scenes maneuvring say a number of other Democratic senators signed up for more sanctions had privately recoiled from a damaging vote against their own president. According to some counts in recent weeks, the measure had 59 likely votes, including 16 Democrats, and was even approaching a two-thirds veto-proof majority in the 100-seat Senate. But latest developments appear to have checked that momentum. "I am strongly supporting the bill but I think a vote is unnecessary right now as long as there's visible and meaningful progress" in the Iran negotiations, Senator Richard Blumenthal told AFP, after expressing reservations earlier this month. Democratic Senator Chris Coons made a similar declaration at a post-State of the Union event hosted by Politico. "Now is not the time for a vote on an Iran sanctions bill," he said. Another Democratic Senator, Joe Manchin, hopes Senate Majority Leader Harry Reid will not bring it up. "I did not sign it with the intention that it would ever be voted upon or used upon while we're negotiating," Manchin told MSNBC television. "I signed it because I wanted to make sure the president had a hammer if he needed it and showed him how determined we were to do it and use it if we had to." The White House mounted an intense campaign against a bill it feared would undermine Tehran's negotiators with conservatives back home or prompt them to ditch diplomacy. Obama aides infuriated pro-sanctions senators by warning the measure could box America into a march to war to halt Tehran's nuclear program if diplomacy died. The campaign included a letter to Reid from Democratic committee chairs urging a vote be put off. Another letter was orchestrated from a group of distinguished foreign policy experts. Multi-faith groups weighed in and coordinated calls from constituents backing Obama on nuclear diplomacy poured into offices of key Democrats. The campaign appears for now to have overpowered the pro-sanctions push by hawkish senators and the Israel lobby, whose doubts on the Iran nuclear deal mirror those of Israeli Prime Minister Benjamin Netanyahu. Senator Johnny Isakson, a Republican co-sponsor of the legislation, said: "It looks like we're kind of frozen in place." Those behind the anti-sanctions campaign though privately concede they may have won a battle, not a war. 'A crucial victory' The push for new sanctions will flare again ahead of the American Israel Public Affairs Committee's (AIPAC) annual conference in March, which Netanyahu is expected to address. It could also recur if the talks with Iran on a final pact extend past the six-month window set by the interim deal. But for now, groups that supported the push against sanctions are jubilant. "This is a major victory, a crucial victory for the American public who don't want to see a war," said Kate Gould of the Friends Committee on National Legislation. But she warned: "There'll be other efforts to try and sabotage the process."

### 2NC AT: Congress

#### “cybersecurity legislation still faces significant challenges in Congress” – is their card – that’s the point – it causes a fight

#### Obama-specific

Rana 11 (Aziz – Assistant Professor of Law, Cornell Law School, “TEN QUESTIONS: RESPONSES TO THE TEN QUESTIONS”, 2011, 37 Wm. Mitchell L. Rev. 5099, lexis)

Thus, for many legal critics of executive power, the election of Barack Obama as President appeared to herald a new approach to security concerns and even the possibility of a fundamental break from Bush-era policies. These hopes were immediately stoked by Obama's decision before taking office to close the Guantanamo Bay prison. n4 Over two years later, however, not only does Guantanamo remain open, but through a recent executive order Obama has formalized a system of indefinite detention for those held there and also has stated that new military commission trials will begin for Guantanamo detainees. n5 More important, in ways small and large, the new administration remains committed to core elements of the previous constitutional vision of national security. Just as their predecessors, Obama officials continue to defend expansive executive detention and war powers and to promote the centrality of state secrecy to national security.

#### Legislative action on OCO’s saps President’s political capital

Rosenzweig 10 (Paul – founder of Red Branch Consulting PLLC, a homeland security consulting company and a Senior Advisor to The Chertoff Group. Mr. Rosenzweig formerly served as Deputy Assistant Secretary for Policy in the Department of Homeland Security. He is a Distinguished Visiting Fellow at the Homeland Security Studies and Analysis Institute. He also serves as a Professorial Lecturer in Law at George Washington University, a Senior Editor of the Journal of National Security Law & Policy, and as a Visiting Fellow at The Heritage Foundation, “Proceedings of a Workshop on Deterring Cyberattacks: Informing Strategies and Developing Options for U.S. Policy”, 2010, pg 264, http://www.nap.edu/openbook.php?record\_id=12997&page=245)

To achieve this level of coordination and secure the cooperation of other federal agencies, it is almost certain that the cyber coordinator will need to, effectively, have cabinet-rank and report directly to the President. Any lesser degree of empowerment will, with near certainty, foreclose any realistic possibility of success. In short, if it wishes to advance the coordinative function in a meaningful way the White House must take ownership of the cybersecurity issue and work with Congress to endow the cyber coordinator position with the authority necessary to achieve a set of clearly defined and articulated goals. The cyber coordinator will also have the difficult task of incorporating private-sector perspectives into the development of any Federal policy and in its implementation. Typically, Federal policy is informed by private sector views through the offices of the constituent cabinet agencies who participate in the policy development. Somewhat less frequently, private sector views are formally solicited through advisory committees and other less formal means of interaction. In the cyber domain, uniquely, Federal policies will have an impact on private sector equities and implementation issues will require private sector coordination. A critical task for the cyber coordinator will be the development of an effective mechanism for incorporating those view points. Finally, it is worth acknowledging that we should not be completely sanguine at the prospects for success in achieving this sort of restructuring. In addition to opposition from agencies whose roles and responsibilities will be modified we should anticipate significant opposition from both Congress and the regulated community. Congressional inertia and interest in protecting jurisdictional prerogatives is widespread, as is regulatory resistance to any activity that empowers governmental control. Coordinated budgeting will require the cooperation of the Appropriations Committees in both houses of Congress in consolidating their consideration of the President's budget request. To the extent that legislative enactments are required to achieve centralizing objectives, their passage will require a significant investment of Presidential political capital.

### 2NC AT: No Link Uniqueness

#### Obama retains political capital on foreign policy

**Ziaberi 1/24**­ (Kourosh – interview with Kaveh Afrasiabi, the author of several books on Iran’s foreign policy and a former advisor of Center for Strategic Research , “Congress New Sanctions Bill Scuttles the Geneva Deal” Iran Review, <http://www.iranreview.org/content/Documents/Congress-New-Sanctions-Bill-Scuttles-the-Geneva-Deal.htm>)

Q: Can we interpret the conflicts and disputes between the White House and the Congress as a power struggle which has manifested itself in the nuclear standoff? Is it that the complexity of the decision-making hierarchy in the United States has resulted in a conflict between the government and the two chambers of the Congress?

A: Well, certainly this can be viewed from many different angles, such as the ‘checks’ and balance’ and Congressional role in foreign policy, not to mention traditional party politics. Since the Clinton Administration, Congress has organically inserted itself in the Iran policy and even more so during the “Obama era,” as a result of which White House’s moves on Iran are subject to intense congressional scrutiny. But, given Secretary John Kerry’s long tenure in the Senate, compared to the first Obama administration, I would say that the second Obama administration has a greater sway on Congress’s foreign policy input, otherwise the Geneva deal would not have survived the criticisms.

### Sanctions = Strikes – 2NC

#### The bill shatters international enforcement and greenlights an Israeli strike

Krass 12/31 (Richard Klass, retired USAF Colonel; Lt. General (USA Ret.) Robert Gard, the chairman of the Center for Arms Control and Non-Proliferation, contributed to this piece, Huffington Post, “The Road to Wars”, 2013, <http://www.huffingtonpost.com/richard-klass/the-road-to-wars_b_4524280.html>)

Senator Robert Menendez (D-NJ), chairman of the Senate Foreign Relations Committee, has introduced legislation that sets the United States on the road to war with Iran and the road to an internal war within the Democratic Party. The bill (S.1881), which has many Democratic co-sponsors, increases the chances for war in two major ways. First, it undercuts ongoing negotiations to build on the first-step nuclear agreement with Iran by adding additional sanctions before the current six month negotiating period plays out. Iran has threatened to withdraw from these negotiations if a bad faith act, such as adding new sanctions, transpires. The U.S. would do the same if, for example, Iran's parliament passed legislation to open a new nuclear production facility. If the first-step deal collapses, there will be no problem in quickly instituting new sanctions. And there will certainly be calls for military action, no matter how short-term the results would be. But if the collapse is triggered by a U.S. unilateral action, the coalition now enforcing those sanctions could well collapse. This undermining of the president's negotiating authority and international cooperation is as unprecedented as it is dangerous. The second danger in this bill is that it encourages an Israeli attack on Iran. The bill states that "... if the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide ..., diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence...." While the language is "should," not "must," and there are bows to the Constitution and congressional authority, this is a clear signal to Israel that it can count on U.S. support for a "unilateral" air strike. And Iran cannot be blamed if it takes it that way. No one should doubt who will determine if the Iranian program provides an existential threat to Israel. The Israeli government's position is that any enrichment in Iran is such a threat. Yet reaching any agreement with Iran will undoubtedly require some residual domestic enrichment capability. Military experts agree that Israel would need substantial U.S. help for any effective attack. This would include not only intelligence and aerial refueling, but also combat search and rescue for downed Israeli pilots, possible suppression of enemy air defenses and other direct combat missions. In short, war. This language, while not requiring that the U.S. support an Israeli attack, certainly will be taken that way in Israel and Iran. Also, it just might be enough to doom a diplomatic settlement and unleash the dogs of war.

### 2NC AT: Veto

#### Veto-proof majority can still occur

Millstein 1/29 (Seth, “Iran Sanctions In Trouble After Obama’s State of the Union Veto Threat”, 2014, http://www.bustle.com/articles/14090-iran-sanctions-in-trouble-after-obamas-state-of-the-union-veto-threat)

For anyone who doubts the power of the bully pulpit, here’s one reason not to. Earlier this month, it was reported that a new Iran sanctions bill was all but assured passage in the Senate. On Tuesday, President Obama announced in his State of the Union address Tuesday that if Congress passes that bill, he’ll veto it. Less than a day later, three Democrats who’d cosponsored that very bill suddenly reversed course and said that well, maybe it’s not so important to pass new sanctions right now after all. On Tuesday night, Joe Manchin told MSNBC that he’d like to “give peace a chance,” and didn’t support voting on the bill while the U.S.’s negotiations with Iran were still ongoing. When asked about the legislation in an interview Wednesday, Chris Coons said that “now is not the time for a vote on the Iran sanctions bill,” and the same day, Kirsten Gillibrand said that,“[a]fter speaking with the President, I am comfortable giving him the additional time requested before this bill goes to the floor.” This is a drastic turnaround from early January, when the bill’s supporters were boasting of a veto-proof majority. They’ve been saying this whole time that the legislation merely gives the White House the option to impose new sanctions if negotiations fail, but it’s actually much harsher than that. For example, the bill would require that the new sanctions go into place unless Obama himself can certify that Iran has never, directly or indirectly, at any point in the country’s history, supported a proposed or actualized terrorist attack against the United States. One could make a decent case that that’s already an impossible qualification to fulfill. Regardless of its contents, the very passage of any new sanctions bill would almost certainly drive Iran from the negotiating table and undo the many months of slow but steady diplomacy between the two countries. While it’s still possible that the bill’s supporters will round up enough votes for a veto-proof majority, that seems distinctly less likely now

#### Legislation isn’t dead

Johnson 1/30 (Luke – Huffington Post, “Iran Sanctions Bill 'On Ice' As Momentum Fades In Senate “, 2014, http://www.huffingtonpost.com/2014/01/30/iran-sanctions-bill\_n\_4696197.html)

Another Senate Democratic leadership aide wouldn't go so far as to call the legislation dead, but conceded, "Its forward momentum has been stopped and even reversed." Both aides requested anonymity in order to speak candidly. The bipartisan bill had been gaining steam over the past two months, picking up a whopping 58 cosponsors -- including 15 Democrats. The measure would boost sanctions on Iran unless it agrees to halt all of its uranium enrichment. But the White House has been pushing back hard against any congressional action on Iran sanctions, warning it could thwart a delicate deal in place between Iran and six world powers. Under that six-month deal, Iran would scale back its uranium enrichment in exchange for sanctions relief. Iranian leaders have already warned that any new sanctions would sink the deal, which would leave the U.S. with few options for resolving concerns with Iran apart from going to war. The White House pressure has paid off. Reid has refused to bring the bill up for a vote, and during Tuesday's State of the Union, Obama made it clear he would veto the measure if it even made it to his desk. Since then, at least three Democratic cosponsors of the bill have walked back their support for taking it up. Several senators acknowledged Thursday that the bill isn't going anywhere, at least not anytime soon. "We want to give the administration the time it needs to negotiate," said Sen. Michael Bennet (D-Colo.), a cosponsor of the bill and the chairman of the Democratic Senatorial Campaign Committee. Asked if his Democratic colleagues are prepared to hold off on pushing the bill amid international negotiations with Iran, he said, "That's my sense." "There's no time frame," said Sen. Ben Cardin (D-Md.), a cosponsor of the bill. "That's up to the majority leader, he's the one who schedules votes ... I've always been comfortable with the fact that our first preference is a negotiated agreement." "Do I think it's going to be brought up? No," said Sen. Carl Levin (D-Mich.). "And I hope it isn't brought up." Republican proponents of the bill conceded the White House has won this round, but said that's a bad thing. "The pressure from the administration has made people, particularly Harry Reid, who's the key guy, back off of it," said Sen. John McCain (R-Ariz.).

#### Vote counts

Wiegel 1/29 (David, “How Hubris (and J Street) Stalled the Iran Sanctions Bill”, 2014, http://www.slate.com/blogs/weigel/2014/01/29/how\_hubris\_and\_j\_street\_stalled\_the\_iran\_sanctions\_bill.html?wpisrc=burger\_bar)

The pressure didn't work; the fightback was on. Both Flake and Paul maintained neutrality, as more Democrats were quoted opposing the sanctions bill, if only for reasons of timing, wanting to let negotiations play out. Democrats like Coons and New Jersey Sen. Cory Booker were pressured from the left on social media. There still aren't 34 confirmed "no" votes on the legislation, but the campaign to make Harry Reid hold a vote on a winning resolution is over. For the moment.

#### Veto override is still possible

Buonomo 1/30 (Thomas, “Americans Must Exercise Their Power to Check Congress on Iran Sanctions “, 2014, http://www.huffingtonpost.com/thomas-j-buonomo/americans-must-exercise-t\_b\_4699196.html)

In spite of the United States' unprecedented opportunity to reach a negotiated settlement with the Iranian government over its nuclear program, both Republicans and Democrats in Congress are determined to push ahead with sanctions, with 59 of 100 Senators co-sponsoring a bill that would undermine diplomacy if passed. President Obama vowed during his State of the Union speech to veto the bill if it passes but Congress could override his veto with a two-thirds majority of votes in the Senate (67 of 100) and more bellicose House (290 of 435), which passed its own bill last year and would almost certainly support the Senate bill. While two senators may be withdrawing their co-sponsorship of the legislation, the situation remains precarious. Iran in November agreed for the next six months to cap enrichment of its uranium to a level that could not be used to produce nuclear weapons, to open nuclear facilities previously inaccessible to IAEA inspectors, and to allow daily inspections at these sites. In return the Obama administration agreed to provide limited sanctions relief that could be quickly reversed if Iran breaks the terms of the deal. On January 20, Iran began implementation of this interim nuclear agreement, intended to allow time and political space for negotiations on a comprehensive deal planned to resume in mid-February. Many legislators, however, are attempting to force the Obama administration's hand on additional sanctions out of a mistaken belief that increasing economic pressure now will strengthen the U.S. negotiating position. Others appear to want to sabotage diplomacy altogether and use the pressure of sanctions to goad Iranian citizens to attempt an overthrow of their government.

### A2: Thumpers – 2NC

#### Iran sanctions are at the top of the agenda

Todd 1/6/14 (Chuck, Chief NBC News Correspondent, "First Thoughts: Obama's big (and important) January," http://firstread.nbcnews.com/\_news/2014/01/06/22201032-first-thoughts-obamas-big-and-important-january)

4. Iran deal: Last month, we wrote that the easy part was the United States and European powers striking an interim deal with Iran to curtail its nuclear weapons. The harder part is forging a long-term deal. And even harder is when members of Congress are trying to impose new sanctions on Iran, which the administration says could undermine the negotiations. “Bipartisan legislation was introduced in the U.S. Senate on Thursday [Dec. 19] that would authorize new economic sanctions on Iran if it breaches an interim agreement to limit its nuclear program or fails to strike a final accord terminating those ambitions,” CNN reported. “The proposal led by Foreign Relations Committee Chairman Robert Menendez, a New Jersey Democrat, and Mark Kirk, an Illinois Republican, emerged despite Obama administration appeals for Congress to defer pursuing new sanctions with diplomatic efforts ongoing. The White House said new sanctions would undermine those delicate efforts on the global stage and President Barack Obama would veto the legislation if Congress were to approve it now.”

#### Obama’s speech placated most Democrats – just not the extreme left, who are all probably hippies that already love Iran anyway

**NPR 1/19** (“Details Sketchy On NSA Changes, But Congress Reacts Quickly” <http://wuwm.com/post/details-sketchy-nsa-changes-congress-reacts-quickly>)

RACHEL MARTIN, HOST: Back in the U.S., while there were complaints that some of the recommendations were vague, reactions have been nonetheless swift, especially in Congress. Joining us to talk about the political fallout at home is NPR's political correspondent Mara Liasson. Good morning, Mara. MARA LIASSON, BYLINE: Good morning, Rachel. MARTIN: So, the president's NSA proposals, how are they going over on Capitol Hill? LIASSON: Well, the reaction was mixed, as you would expect because this is such a divisive issue and not just left and right. The civil libertarian left and the libertarian right is united on this. So, you heard Democrats, like Tom Udall of New Mexico and Ron Wyden of Oregon call this a major milestone, but they want to go much further and put more restraints on the programs. Then you heard other Democrats, like the Senate Intelligence Committee Chairman Dianne Feinstein and the House Intelligence Committee Chairman Mike Rogers, a Republican, saying they're concerned about the president's proposals to put more restrictions on the scrutinizing of people's metadata and calls. And they are worried about that. So, you can see it's a very mixed reaction because this is a divisive issue. MARTIN: But Congress is the body that has to green light these reforms ultimately, right? LIASSON: They do. And if they don't, by June of 2015, the Patriot Act expires, and of course that's what some of the opponents of this collection want to happen, that the whole law goes away. But that is the deadline hanging over Congress and they have a lot to do before then. They have to decide exactly what some of these reforms will look like. The president left the work to them. For instance, exactly where this data will be stored, if not by the government. So, they have a lot of details to figure out. MARTIN: Let's get to the political realities. As you say, the criticism came from the left and the right. But did the president do enough to ease concerns from Democrats, from those in his own party? LIASSON: Well, he's never going to ease the concerns of the ACLU and some parts of his base. But, yes, I think he did go far enough to quiet the concerns of people who thought these programs were going forward unrestrained and unreformed.

#### Obama’s not spending PC on it

Levy 1/17 (By Pema Levy, Newsweek, “Obama Brings Snoopers to Heel but Approves Spying on Americans”, http://www.newsweek.com/obama-brings-snoopers-heel-approves-spying-americans-226591)

While it’s hard to imagine a commander in chief dismantling his or her own intelligence-gathering programs, Obama was presented with the opportunity to take more drastic action. In December, a district court judge found the metadata program likely unconstitutional. Shortly thereafter, a review panel Obama himself appointed came out with surprisingly strong criticisms of the surveillance programs and called for serious reforms.¶ Instead, Obama chose a middle path that is in some ways typical of his approach to national security concerns.¶ “Obama finds himself with a national security situation that he’s not wild about, but does not have the political capital to do a complete about-face, nor is there a clear route out. And so he does some rearranging and really tries to demonstrate that what’s going on is done as consistently as possible with what he views as national values,” F

riedman said. “But that statement could have been used about Guantanamo, about torture, about Afghanistan, about many, many things that the United States has done since 2000.”¶ It’s possible that as Congress takes on the mass surveillance programs in the coming months and years, these programs will be significantly scaled back and reformed. Perhaps more likely, as Paul noted on CNN, the Supreme Court may have the final say.

### AT: Negotiations Fail

#### Deal will be approved on Iran’s side---Rouhani will overcome conservative opposition

Al-Jazeera 1-7, “Iran's Rouhani defends nuclear deal,” 1/7/14, http://www.aljazeera.com/news/middleeast/2014/01/iran-rouhani-defends-nuclear-deal-201417113340152307.html

Iran's President Hassan Rouhani has defended a nuclear deal with world powers amid continued domestic criticism.

Rouhani said on Tuesday that the deal, which promises moderate sanction relief in return for temporarily curbing Iran's nuclear drive, would not be derailed by opposition in government.

"It required brave decision-making ... We should not and do not fear the fuss made by the few people or a small percentage", Rouhani said in remarks broadcast live on state television.

"The initial agreement with the six major powers on the nuclear issue was not a simple task but very difficult and complicated," he said.

Rouhani's defence came after repeated criticism by opposition in parliament and the powerful Revolutionary Guards of the deal signed in November.

The agreement requires Iran to roll back parts of its nuclear drive for six months, in exchange for modest sanctions relief and a promise by Western powers not to impose new sanctions.

Critics have primarily questioned if the Islamic Republic benefits from the deal, and if fewer concessions could have been made by the negotiating team, led by Mohammad Javad Zarif, Iran's foreign minister.

In recent weeks, elements in the conservative-dominated parliament have sought to form a committee to supervise the negotiating process but to no avail.

However, Rouhani appears to enjoy the backing of supreme leader Ayatollah Ali Khamenei, who retains control of all final decisions regarding the matter.

"In all important and sensitive steps along the way, the supreme leader has backed the government and its policies," Rouhani said.

Iran's economy has been hard hit by international sanctions, while the vital oil exports have been more than halved by US and European embargoes.

The deal - which is yet to come into force- is aimed at creating a window of diplomatic opportunity for Iran and the P5+1 group of world powers, comprising the US, Britain, France, China and Russia plus Germany, to find a lasting solution to the decade-long standoff over Iran's nuclear activities.

In Tehran, meanwhile, legislators are readying a bill that would oblige the government to enrich uranium to 60 percent if Iran is hit by new sanctions.

Talks to remove remaining obstacles before the deal is implemented will resume in Geneva, Switzerland, on Thursday.

### DISEASE

#### CARD BAD

#### No disease can cause human extinction – they either kill their hosts too quickly or aren’t lethal

**Posner 05** (Richard A, judge on the U.S. Court of Appeals, Seventh Circuit, and senior lecturer at the University of Chicago Law School, Winter. “Catastrophe: the dozen most significant catastrophic risks and what we can do about them.” http://findarticles.com/p/articles/mi\_kmske/is\_3\_11/ai\_n29167514/pg\_2?tag=content;col1)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that

AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extiinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time.

#### USA can’t solve agreements.

Schreurs ’12 [Miranda A. Schreurs, Director of the Environmental Policy Research Centre, Free University of Berlin, "Breaking the impasse in the international climate negotiations: The potential of green technologies," Energy Policy 48, September 2012, pp. 5-12, Elsevier]

 The Durban outcome has kept the international negotiation process alive, but does not reﬂect the urgency of the problem at hand. That no post-Kyoto agreement is expected to enter into force until 2020 and the content of the agreement still needs to be developed also raises the question of whether the international community will be able to put a break on rising greenhouse gas emissions, let alone reduce them on the order that will be necessary to stay within the 1.5 to 2.0 degree Centrigrade temperature goal. The general scientiﬁc consensus is that if the rise in greenhouse gases is not halted by 2020 and then reduced on the order of 50% below 1990 levels by 2050, then it will be next to impossible to maintain the rise in greenhouse gases to within the 2 degrees Centigrade range. One very major challenge to the future agreement is the domestic political situation in the United States, which makes passage of national climate legislation, let alone ratiﬁcation of a global climate agreement highly unlikely in the near future. Already in Cancun, Japan made it clear that it opposes a second phase for the Kyoto Protocol. Yoshito Sengoku, Japan’s Chief Cabinet Secretary, announced that Japan would ‘‘sternly oppose debate for extending the Kyoto Protocol into a second phase which is unfair and ineffective.’’ (United Press International (UPI), 2010; MOFA, 2010). With its rapidly rising greenhouse gas emissions tied to the extraction of oil from tar sands in Alberta, Canada has pulled out of the agreement. Also problematic is the resistance of many developing countries to the establishment of binding emission reduction targets and timetables. India strongly pushed the perspective of per capita equity arguing that it should not be held captive by a problem largely caused by other countries. With its low per capita greenhouse gas emission levels as a result of high levels of poverty, India will be reluctant to accept commitments that could affect its economic growth perspectives.

### 2NC No Warming

#### No extinction from climate change

NIPCC 11 – the Nongovernmental International Panel on Climate Change, an international panel of nongovernment scientists and scholars, March 8, 2011, “Surviving the Unprecedented Climate Change of the IPCC,” online: http://www.nipccreport.org/articles/2011/mar/8mar2011a5.html

In a paper published in Systematics and Biodiversity, Willis et al. (2010) consider the IPCC (2007) "predicted climatic changes for the next century" -- i.e., their contentions that "global temperatures will increase by 2-4°C and possibly beyond, sea levels will rise (~1 m ± 0.5 m), and atmospheric CO2 will increase by up to 1000 ppm" -- noting that it is "widely suggested that the magnitude and rate of these changes will result in many plants and animals going extinct," citing studies that suggest that "within the next century, over 35% of some biota will have gone extinct (Thomas et al., 2004; Solomon et al., 2007) and there will be extensive die-back of the tropical rainforest due to climate change (e.g. Huntingford et al., 2008)."¶ On the other hand, they indicate that some biologists and climatologists have pointed out that "many of the predicted increases in climate have happened before, in terms of both magnitude and rate of change (e.g. Royer, 2008; Zachos et al., 2008), and yet biotic communities have remained remarkably resilient (Mayle and Power, 2008) and in some cases thrived (Svenning and Condit, 2008)." But they report that those who mention these things are often "placed in the 'climate-change denier' category," although the purpose for pointing out these facts is simply to present "a sound scientific basis for understanding biotic responses to the magnitudes and rates of climate change predicted for the future through using the vast data resource that we can exploit in fossil records."¶ Going on to do just that, Willis et al. focus on "intervals in time in the fossil record when atmospheric CO2 concentrations increased up to 1200 ppm, temperatures in mid- to high-latitudes increased by greater than 4°C within 60 years, and sea levels rose by up to 3 m higher than present," describing studies of past biotic responses that indicate "the scale and impact of the magnitude and rate of such climate changes on biodiversity." And what emerges from those studies, as they describe it, "is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to another." And, most importantly in this regard, they report "there is very little evidence for broad-scale extinctions due to a warming world."¶ In concluding, the Norwegian, Swedish and UK researchers say that "based on such evidence we urge some caution in assuming broad-scale extinctions of species will occur due solely to climate changes of the magnitude and rate predicted for the next century," reiterating that "the fossil record indicates remarkable biotic resilience to wide amplitude fluctuations in climate."

#### Long timeframe and adaptation solves [must read]

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006). These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

# 1NR

## Counterplan Proper

### A2: No Test Case – 2NC

#### Fiat solves - its should/would and no different than a bill on Congress’ floor

#### Don’t need a test case

**O’Brien 5** (David M., Professor of Judicial Politics and Public Law – Woodrow Wilson Department of Politics at the University of Virginia, Storm Center: The Supreme Court in American Politics, p. 170-171)

Although most cases now come as certiorari petitions, Congress provides that appellate courts may also submit a writ of certification to the court, requesting the justice to clarify or “make more certain” a point of federal law. The court receives only a handful of such cases each term. Congress also gave the court the power to issue extraordinary writs, or order. In a few cases, the court may issue writes of mandamus and prohibition ordering lower courts or public officials either to do something or refrain from some action.

#### Test case always exists

Quirk and Bridwell 95 (William J., Professor of Legal Research – University of South Carolina Law and R. Randall, Professor of Law – University of South Carolina Law School, Judicial Dictatorship, p. 29-30)

We would answer that the Court is the “least dangerous” branch as Alexander Hamilton said; it has no executive or legislative authority; it doesn’t make rules; it just decides cases that come before it. The trouble with our answer is that the Court is able to select the cases that come before it from a large number of them. The Court, at its 1992-93 term, refused to hear 7,233 cases while it decided to hear ninety- seven, or 1.3 percent. In 1950, on the other hand, the Court heard 10 percent of the cases brought to it which indicates it was then acting as a court of appeal over the lower federal courts. The Court’s power to pick from among such a **large number** of cases gives it the **practical ability to rule on issues it thinks important**, to act, in effect, as a Court of National Policy.

#### 6. Not a voter – reject the argument, not the team

### Solvency Debate

Your Berenson evidence is someone telling Bush what he wants to here – and doesn’t point to judicial mistakes in the area of the plan which means it’s irrelevant - 1NC Bradley and Morrison says courts have the ability to solve because other agencies WANT to comply with the courts

#### CP solves certainty about war powers

Memesath 00 (Paul, J.D./M.S.F.S. Georgetown University School of Foreign Service, "Who's Got the Button? Nuclear War Powers Uncertainty in the Post-Cold War Era," August, 88 Geo. L.J. 2473, lexis)

A decision before the Supreme Court would provide acceptable clarity in any of the three scenarios that may be imagined. In the case that the Supreme Court is able to put aside standing, ripeness, and political question doctrines as jurisdictional barriers, a settled meaning of the war powers would finally come to light. Whether the Court decides for the supremacy of the Executive or Congress, the harm associated with war powers uncertainty would diminish with the certitude of the decision. Assuming a decision that favors the Executive, Congress would be put on notice that future judicial challenges regarding the war powers would prove fruitless, thus negating future harmful constitutional challenges in the throes of crisis. Although such a decision risks the harms associated with a one-person army, n194 it would allow Congress to prepare for this constitutional reality by carefully structuring appropriations mechanisms or more credibly threatening impeachment in times of controversial military action.¶ Assuming that the Supreme Court holds that the President must respect the war powers authority of Congress, the harmful effects of uncertainty would be diminished as well. In this case, both the President and the Congress would recognize that a legislative lawsuit based on a congressional majority adverse to the President's actions is no longer a wildcard subject to the formerly treacherous and unpredictable procedural hurdles thrown up by lower courts. But most importantly, the validity of the war powers legislation itself, previously slandered for its ineffectiveness and accused of being unconstitutional, n195 would be confirmed in the eyes of both the legislature and the Executive, thereby allowing each branch to plan accordingly. n196¶

### CP Solves the I-law

#### Your internal is oversight – that’s 1AC Lin – court action key

Rosenzweig 10 (Paul, Principal @ Red Branch Consulting + Lecturer of Law @ George Washington Univ.,"The Organization of the United States Government and Private Sector for Achieving Cyber Deterrence," p. 254)

No description of the organizations and processes necessary for cyber deterrence would be complete without acknowledgement of the need for structures to ensure that activities intended to prevent a successful cyber attack by U.S. opponents or to enable a successful cyber attack by our own government are pursued in conformance with¶ the laws and policies of the United States. As other papers in this collection make clear, a number of potential¶ activities in support of a cyber deterrence policy have significant privacy and civil liberties implications.¶ This paper consciously leaves aside this very significant implementation question, though it is clearly one that must¶ be addressed. Existing oversight structures range from agency level privacy officers and inspectors general to¶ executive level institutions such as the Intelligence Oversight Board of the President’s Intelligence Advisory Board¶ (established by E.O. 13462), and the Privacy and Civil Liberties Oversight Board (created by Pub. L. 110-52, 9/11¶ Commission Act, § 801, though as of the writing of this paper inactive). These Executive mechanisms are¶ supplement through Congressional oversight and, where appropriate, judicial review of executive actions. As new¶ deterrence policies are developed and implemented it is likely that new privacy protective systems will also be¶ developed (indeed, this paper suggests one such system as part of its description of a new public/private model of¶ cooperation). This paper does not, however, provide a complete description of existing structures. The failure to¶ address the question, however, is by no means a diminishment of its importance.

#### Court action is key to I-law perception

Flaherty 11 (Martin S., Leitner Professor of International Law, Fordham Law School; Visiting Professor, Woodrow Wilson School of Public and International Affairs, Princeton University, “Judicial Foreign Relations Authority After 9/11”, 56 N.Y.L. Sch. L. Rev. 119)

2. Legislative Globalization This pro-executive conclusion becomes even harder to resist given the slowness with which national legislators have been interacting with their counterparts. Several factors account for the slower pace of legislative globalization. Membership in a legislature almost by definition entails not just representation but representation keyed to national and subnational units. The turnover among legislators typically outpaces either executive officials or, for that matter, judges. In further contrast to legislators, regulators need to be specialists, and specialization facilitates cross-border interaction if only because it is easier to identify counterparts and focus upon common challenges. n137 Transnational legislative networks exist nonetheless and are growing. To take one example, national legislators have begun to work with one another in the context of such international organizations as NATO, the Organization for Security and Co-operation in Europe (OSCE), and the Association of Southeast Asian Nations (ASEAN). To take another example, independent legislative networks have begun to emerge, such as the Inter-Parliamentary Union and Parliamentarians for Global Action. n138 Yet even were national legislators to "catch up" to their executive counterparts in any meaningful way, the result would not necessarily be more robust or adequate protection of fundamental rights in times of perceived danger or the protection of minority rights at any time. Human rights organizations around the world are all too familiar with the democratic pathology of draconian statutes hastily enacted in response to actual attacks or perceived threats, including the Prevention of Terrorism Act in the United Kingdom, the USA PATRIOT Act in the United States, and the Internal Security Act in Malaysia. n139 It is for this reason that the essential player in the matter of rights protection must remain the courts. [\*143] 3.

### Avoids Politics – 2NC

#### Courts are politically independent

Stephenson 99 (Donald Grier Jr., Professor of Government – Franklin and Marshall College and Ph.D. – Princeton University, Campaigns and the Court, p. 231-232)

Additionally, practically every stage of the decision-making process and every step in the way the Court conducts its business set the judicial function apart from the legislative and executive functions. The justices seem not just different but aloof, even mysterious. One journalist has called the Court “at once one of the most open and one of the least accessible of the major institutions of government. It is open because the public has access to nearly all legal documents that are filed and to the oral argument of cases. Yet the decisions themselves emerge from a deliberative process cloaked in secrecy. Leaks prior to official announcements of decisions are so rare that they make headlines when they occur. “The very idea of cooking up opinions in conclave, begets suspicions that something passes which fears the public ear,” Thomas Jefferson protested to Justice William Johnson. The Court’s penchant for secrecy may even occasionally fuel the “paranoid style in American politics,” which “evokes the qualities of heated exaggeration, suspiciousness, and conspiratorial fantasy”. And the Supreme Court’s aversion to televised or broadcasted proceedings and to still photography in the courtroom makes even its most public activity seem set apart. “The only groups who don’t appear on television,” observes journalist Fred Graham, “are the Supreme Court and the Mafia.

#### Still insulated from politics

AFP 05 (Agence France Presse, 7/20. “Power in the hands of nine: the US Supreme Court.” Lexis.)

The US Supreme Court wields enormous influence over American life, serving as the arbiter of the Constitution, the ultimate court of appeal, and as a check on the power of Congress and the President. One of the three branches of the US government, the court, based in an ornate white marble building opposite the US Capitol, has the power to strike down any state or federal law it deems unconstitutional. Its nine justices also serve as the final court of appeal for criminal and civil cases and have the power to set or change legal precedents. The court is the crucible where key decisions on such issues as death sentences, abortion and same-sex marriage are made. Decisions of the court can only be overturned by another Supreme Court ruling. Supreme Court justices are appointed for life, and as such are supposed to be shielded from the twists of public opinion and partisan politics. Appeals court Judge John Roberts, 50, nominated to the court by President George W. Bush on Tuesday, likely replaces Justice Sandra Day O'Connor, the first ever female justice, who announced her retirement on July 1. The framers of the US Constitution insulated the justices to ensure they could take potentially unpopular decisions in order to protect the rights of individuals from the rule of the majority. The ideological make-up of the court shifts over time as justices retire and are replaced. A fresh appointment gives presidents an opportunity to shape US policy long after they step down. The most recent addition to the bench was Justice Stephen Breyer, appointed by then president Bill Clinton in 1994. Clinton also named the second woman ever to serve on the court Ruth Bader Ginsburg in 1993. Nominees to the Supreme Court must be confirmed by the US Senate, which has rejected 28 candidates of whom the most recent was Robert Bork, nominated by then-president Ronald Regan in 1987. Judges can choose to retire at the age of 70 or resign as a result of illness. They are also subject to dismissal in cases of treason, corruption or other crimes and offenses. The Supreme Court sits from October through June and generally rules on about 80 of the 8,000 cases submitted for review. Once a case is accepted, the parties present a written argument. They are then called for 30 minutes of oral arguments before at least four justices. Rulings are adopted based on a simple majority of votes and the voting records of judges are public. One judge generally writes the majority opinion while those who disagree will often write dissenting opinions.

### Solves Signal – 2NC

#### Court send the best signal – it sets public agendas and transforms social consciousness – even if other branches don’t respond

**Shultz and Gottlieb 96** (David and Stephen, Vice President – Minnesota Civil Liberties Union, Professor – Cleveland-Marshall School of Law, Journal of Law and Policy, Winter)

If Rosenberg is correct, then functionalism appears false. Instead, law and the courts would have to be treated as epiphenomena, with market forces, public opinion, and other institutions operating as the engines of social change. To assume law is not functional, that it does not mold preferences or influence institutional design, would be to live in a world where we assume no goals to the law or otherwise insist that the law matters. Yet law, like any institution, n160 does constrain, influence, and otherwise alter our behavior by influencing how we think and the choices we have to select. The important question about the Court's role in society that Hollow Hope should have developed more is not whether the Court is constrained in terms of matching decisions to specific outcomes, but how the Court realigns political, economic, and social preferences. It is here that the true power of the Court is exercised. The Court serves as an **agenda setter** and **excuse** for policy makers to act. To understand the sources of judicial power is what Hollow Hope and other books on the judiciary should be directed towards. Scientific and historical methods matter both in examining the impact of the courts and in judicial decision making. Hollow Hope shows the limits of seeking to use nomological and other types of positivist social science research to understand the impact of Court decisions. Assessing the impact of the Court requires proper methods either of science or of history. We need to move beyond methods that seek to isolate the Court from the larger flux of change in history if we wish to understand its impact and efficacy. Instead, we need to study the Court and the law more structurally and institutionally, and not necessarily by counting articles that refer to one of its specific decisions. We should start by asking what its decisions meant to us and to other actors and institutions that had to react to a specific decision. This means, in part, that our methods for understanding judicial efficacy need to rely more upon an institutional analysis that recognizes that the Court is embedded within a political context. The Court was designed to be one of three branches of the national government, and its real power may be in its power to socialize conflict, or set political agendas for others. In many ways, perhaps, Alexis De Tocqueville was correct when he wrote in 1840: "There is hardly a political question in the United States which does not sooner or later turn into a judicial one." n161 This claim is true because of the close association between the languages of politics and law. The net result of this for De Tocqueville was that "Americans have given their courts immense political power." n162 What De Tocqueville recognized, and what Hollow Hope hints at, is that the judiciary's real power and efficacy lies in how its decisions influence our political language and the way we think about political and social issues. **The Court's decisions have tremendous sway over the way we think about politics, providing the opportunity and impetus for action**. Rosenberg's book should also caution us to be more careful in assessing Court cases. We should look to the lower courts if we wish to understand links between judicial efficacy and social reform. And we must look at the differences among parties and orders in specific cases. Not all litigants have the same interests, and orders in one case are primarily meant to address that case and not be the basis of large scale social reform. **Cases may become causes, they may become rallying cries for a movement**, and that may have import for society well beyond what the litigants or the Court intended. However, to judge a case or decision by standards we have imposed upon it retroactively, at least the way Rosenberg did, risks seriously misunderstanding what these cases stood for at the time they were litigated and decided. What an event may have stood for at a particular time in history is a very different question from what it means to us today and the two questions should not be confused. We need, then, to be clear how decisions are social "triggers" of action, n163 prompting others to address the issues brought up by the Court. Finally, we need to recognize that even if the judiciary did not produce all the results that we have attributed to them, even if they did not do all that the litigants or the Court hoped, the judiciary may have been the only game in town at a time when the political process may have been closed to some groups. At a time when other social institutions were perhaps deaf to the needs of minorities, women, prisoners, or others, the judiciary did its best to address the grievances with which it was presented and to provide legitimacy to both claims and claimants in public discussion. The litigation and decisions which Rosenberg discussed were part of a still ongoing effort to bring about social and policy change which, perhaps unfortunately, is incremental at best, n164 and was designed by our framers to be that way. n165

#### Court action solves signal – capture public attention AND has powerful information-forcing role

Knowles 9 (Robert, Acting Assistant Professor, New York University School of Law, "Article: American Hegemony and the Foreign Affairs Constitution," 41 Ariz. St. L.J. 87, Spring, lexis)

The accountability justification generally overstates the degree to which courts are insulated from politics. n288 On the domestic front, Supreme Court appointments have become an increasingly prominent issue in presidential elections, at least since Roe v. Wade and the nominations of Robert Bork and Clarence Thomas. n289 Although foreign affairs have not played much of a role in these debates thus far, this is almost certainly due to the courts' generally deferential approach to foreign relations controversies. When the courts have been bolder, such as in the enemy combatant cases, they have captured the attention of policy-makers and the public, creating issues for presidential campaigns. n290 Moreover, accountability cuts both ways. It is a core purpose of the separation of powers. n291 The courts can serve an important information-forcing role that assists the People in holding the executive branch accountable for foreign affairs decisions, many of which are shrouded in secrecy. n292 Court cases require the government to clearly [\*134] articulate the rationales for its policies and the procedures through which those policies were enacted. Habeas corpus forces federal officers to justify their detention of individuals whose imprisonment would otherwise remain unscrutinized. n293

# 2NR

### Card

#### Reid isn’t key – there are ways to bring it up for a vote – and they’re already close to a veto proof majority – proves every ounce of PC is key

Sargent 1/18 (Greg, An Odd Silence Among Senate Dems on Iran")

We’re very close now to the 60 votes it needs to pass. The Dem leadership has no plans to bring it to the floor, but there are other procedural ways proponents could try to force a vote. And if the numbers in favor of the bill continue to mount, it could increase pressure on Harry Reid to move it forward. Yes, the president could veto it if it did pass. But we’re actually not all that far away from a veto-proof majority. And in any case, having such a bill pass and get vetoed by the president is presumably not what most Democrats want to see happen.