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## 1NC TPP

#### TPA will pass – despite Reid’s opposition

Jason **Seher** **2/1**, CNN Senior Congressional Producer Ted Barrett contributed to this report, “Kerry, Hagel rebuke Reid on fast-track trade bill,” http://politicalticker.blogs.cnn.com/2014/02/01/kerry-hagel-rebuke-reid-on-fast-track-track-bill/

(CNN) - Even old friends have occasional disagreements. In a rare joint appearance at the Munich Security Conference, Secretary of State John Kerry and Defense Secretary Chuck Hagel dismissed Senate Majority Leader Harry Reid's opposition to renewing fast-track trade authority and predicted that the bill will ultimately pass in spite of Reid's opposition. "I've heard plenty of statements in the Senate on one day that are categorical, and we've wound up finding accommodations and a way to find our way forward," Kerry told the audience of European allies. "I respect Harry Reid, worked with him for a long time," Kerry said. "I think all of us have learned to interpret a comment on one day in the United States Senate as not necessarily what might be the situation in a matter of months." Reid said Wednesday he is unlikely to consider a bill on the issue anytime soon. "I’m against fast track," said Reid, who controls which bills get to the Senate floor. "I think everyone would be well-advised not to push this right now." With several outstanding trade pacts - including a major deal with the European Union - securing President Barack Obama's "trade promotion authority" remains a priority for the administration. The power would limit Congress' ability to influence American trade policy, only allowing them up or down votes on massive trade deals while leaving negotiations with other nations entirely under the purvey of the President. Proponents of the measure say the TPA prevents crucial trade agreements from getting bogged down in the bureaucratic slog and would help open new markets for U.S. goods. Democrats oppose the measure, arguing past trade deals led companies to ship jobs overseas. Heralding the ability as something that could "have a profound impact" on the American economy, Kerry said the extension of President Obama's authority could pay dividends and help further drive down the unemployment rate. "It's worth millions of jobs," he said. Kerry also was emphatic that Reid's opposition would not stall progress. "I wouldn't let it deter us one iota, not one iota," he said. Hagel echoed his counterpart's tone on the issue, saying that Reid's decision to put the bill on hold was imprudent. "Let's be smart and let's be wise and let's be collaborative and use all of the opportunities and mechanisms that we have to enhance each other - culturally, trade, commerce, exchanges," Hagel said.

**Defending his war power’s derails Obama’s domestic agenda because he is forced to defend himself – that trades off with other priorities**

**Kriner, 10** --- assistant professor of political science at Boston University

(Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61 When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### PC is key – Obama needs to maintain pressure to get TPA through

**WP 2/2** (“The Washington Post: Reid can undermine Obama on TPP,” Feb 02 2014, http://www.sltrib.com/sltrib/opinion/57477685-82/obama-trade-reid-tpp.html.csp)

Mr. Obama’s negotiation team is hard at work on the final details, and the White House needs congressional approval of a special law known as trade promotion authority to strengthen its hand in the talks. In his State of the Union address on Tuesday, Mr. Obama urged Congress to pass that measure, which would expedite a vote on the eventual agreement, as soon as possible. Apparently, Senate Majority Leader Harry Reid, D-Nev., has other ideas. "I’m against ‘fast track,’ " he announced Wednesday, using a colloquial term for trade promotion authority. "I think everyone would be well-advised just not to push this right now." The day after Mr. Obama made his plea, Mr. Reid sounded as if he were rejecting it — thus imperiling the entire TPP project. That might be a stretch: Mr. Reid has never supported trade promotion authority, and he has never been much for free-trade deals, either. He has nevertheless permitted such legislation to move through the Senate in the past, and he stopped short of an explicit threat to block it this time. Still, Mr. Reid’s remarks emboldened free-trade opponents and gave Republican lawmakers, whose support the president will eventually need, a ready-made excuse not to cooperate. This can’t help but sow confusion among the TPP negotiating partners about the United States’ true intentions and about Mr. Obama’s capacity to work his will. Mr. Reid’s language was ham-handed, given that Mr. Obama is counting on other leaders, especially Japanese Prime Minister Shinzo Abe, to stand up to domestic protectionists. Yet the majority leader’s obvious election-year interest in appeasing opponents of trade promotion authority within his party, notably organized labor, makes it that much harder for Mr. Obama to ask Mr. Abe to take political risks. In the wake of Mr. Reid’s comment, White House spokesman Jay Carney called the TPP "a very important opportunity to expand trade" and insisted that "the president will continue to press to get it done." That response was consistent with the administration’s generally low-key lobbying effort with a Congress that hates tough votes on trade. So was Mr. Obama’s brief and mild pitch in the State of the Union. The majority leader’s attitude suggests, however, that the president may need to step up the pressure — and that the Republicans aren’t the only ones on Capitol Hill who can undermine his agenda.

**TPA is key to major trade deals**

**Nawaguna, 12-10** -- Reuters staff

[Elvina, "U.S. Congress could OK trade promotion bill in early 2014, lawmaker says," Reuters, 12-10-13, www.reuters.com/article/2013/12/10/us-usa-trade-idUSBRE9B919020131210, accessed 1-3-14]

The Obama administration has said it needs Congress to approve TPA, which would allow any trade deal to move swiftly through Congress. With TPA, lawmakers cannot amend or filibuster trade deals but can still vote for or against them. The administration needs that fast-track rule to clinch two huge trade deals, the Trans-Pacific Partnership (TPP) with 11 other Pacific Rim countries, and the Transatlantic Trade and Investment Partnership (TTIP) with the European Union. The administration argues that TPA, which expired in 2007, is useful in coaxing countries to put their best deal on the table without fearing that Congress could reopen and amend them.

#### TPP key to solve Asian war

**Kahler, 11** – UC San Diego pacific international relations professor

[Miles, University of California, San Diego Rohr Professor of Pacific International Relations and distinguished Professor of Political science, served as interim director and Founding director of the Institute for International, Comparative, and Area Studies at UCSD, former fellow at the Center for Advanced Study in the behavioral sciences at Stanford University and a senior Fellow at the Council on Foreign Relations, "Weak Ties Don’t Bind: Asia Needs Stronger Structures to Build Lasting Peace," Summer 2011, Global Asia Vol 6, No 2, irps.ucsd.edu/assets/001/502399.pdf, accessed 1-27-13]

Organizations designed to increase regional economic integration can enhance regional security and **reduce** the **risk of military conflict** in two ways. If regional economic organizations increase regional economic exchange, they should contribute to peace. Although the effects of economic interdependence on military conflict between states remains controversial, most scholars agree that cross-border trade and investment have the same positive effect in reducing military conflict — even conflict short of war — as democracy. A second direct effect of international organizations on conflict has inspired less consensus among researchers: membership in intergovernmental organizations has been shown to have positive, negative and no overall effect on violent disputes and war among their members. But specific characteristics do seem to have conflict-reducing benefits. Preferential trade agreements, since they stimulate greater economic ties among members than non-members, appear to enhance the effects of economic interdependence in reducing conflict. International organizations that incorporate forums or negotiations for intensive information exchange are more likely to reduce conflict risk by lowering the possibilities for misreading an opponent’s resolve or capabilities. Some may also provide an arena for negotiation and dispute resolution. Finally, international organizations may socialize their members into habits of co-operation and new norms of behavior. Even institutions with an economic purpose may have such spillover effects into the domain of security. But evaluating these effects is tricky. Governments may join regional organizations when they already intend to liberalize their economies or reorient their foreign policies. Whether Asia’s new regional economic institutions will lessen the likelihood of military conflict requires answering two difficult questions: how much do peace-inducing levels of economic exchange depend on these organizations? how likely would military conflict be if Asian governments did not belong to them? WEAK INSTITUTIONAL ENFORCEMENT Economic interdependence in Asia has grown by most measures to levels that rival those in europe and north America. At the same time, foreign direct investment and cross-border production networks have driven trade integration in key sectors (such as electronics and automobiles). China is central to these networks; its trade with Asia now represents half the trade within the region. whatever the consequences of this burgeoning economic exchange for regional security, regional institutions can claim little credit. until 2000, APeC and the ASeAn Free Trade Area (AFTA) were the sole regional economic organizations with trade and investment liberalization agendas. Both were peripheral to the market-driven and China-centered pattern of economic interdependence that took off in the 1990s. The universe of new preferential trade agreements (PTAs) that populate the region may be more likely to contribute to deeper economic integration and positive security effects. Any interdependence effects will be shared outside the region, however: most of the PTAs concluded, under negotiation, or proposed by Asian governments involve non-Asian partners. existing agreements are heavily biased toward ASeAn rather than northeast Asia, where the risks of international conflict are higher. Finally, many of these agreements are relatively “light” in their provisions: they do not aim, at least initially, at deeper integration through the elimination of politically sensitive “behind-the-border” barriers to trade and investment. Although PTAs have been shown to reduce the use of military force between members, the new Asian PTAs are too recent and too restricted in geographical scope and policy coverage to claim a role in deepening regional economic interdependence. The new regionalism could have direct effects on conflict through the increasingly abundant organizations that span the region from the Tumen river to the Mekong. direct effects on regional security, however, are limited by institutional design. A common format, inspired by ASeAn, characterizes most Asian regional institutions. governments have been reluctant to delegate much authority to the permanent staff of these organizations — when a permanent staff even exists. Individuals and corporations play no direct role in these organizations. There are no regional courts, for example, in which individuals can pe tition against violations of regional agreements. decision-making is consensual. Membership is not used to enforce policy changes on governments that want to join the club, in sharp contrast to the european union model. ASeAn itself has begun to move away from the model that it inspired, building — at least on paper — more formal and binding structures. The ASeAn + 3 Chiang Mai Initiative, which grew out of the Asian financial crisis, has also taken the first steps toward multilateralization of its network of bilateral swap agreements, laying the foundation for more robust financial co-operation. The other key regional economic and security institutions — ASEAN + 3, the East Asia Summit and the ASEAN regional Forum — have not introduced significant changes in the dominant template for regional organizations. Regional economic organizations of this design are likely to have, at best, weak effects on military conflict. Although regional summits provide a venue for occasionally engaging other governments, thin institutional cores do not promote continuous information exchange. Diverse memberships produce organizations that lack cohesion; membership rules are not based on common cooperative ends but rather geographical proximity. Finally, Asian regional economic organizations rarely link economic agendas or negotiations with political or security issues. The “Asian way” of regional institutions is not unique: countries in other developing regions have the same suspicion of intrusion from regional overseers and work to protect their sovereignty. nevertheless, the absence of links between economics and security is distinctive. In europe, economic and security issues are integrated across a network of regional organizations, with the european union and the north Atlantic Treaty organization (nATo) at the center. In the Americas, peace-building and economic integration have reinforced one another. In Asia, economics and security run on distinct and separate tracks, neither disrupting nor reinforcing one another. This two-track approach prevents political conflict from interfering with the ex pansion of trade and investment. That benefit is more than outweighed, however, by a failure to encourage political reconciliation or military confidence building as a precursor to regional economic initiatives. given their institutional design, Asian regional institutions contribute little to the deepening of economic integration (with its positive effects on regional security) and are poorly equipped to dampen military conflicts. They may provide diplomatic forums that supply credible information to potential adversaries, but their slender institutional structures and the line typically drawn between economic and security issues weigh against a central role in reducing conflict among their members. The global economic crisis that began in 2008 has done little to jolt the region out of its institutional rut. The largest emerging economies in the region weathered the crisis well; their attention has been focused on expanding their influence within global governance. non-traditional security issues — such as terrorism, infectious diseases, natural disaster response and cross-border criminal networks — show greater signs of co-operation from regional economic institutions, but for regional economic organizations to foster peace in Asia **a new institutional model is required**. That institutional model need not resemble the highly elaborate european design. Its sources are more likely to lie in the requirements of future economic integration rather than any promised gains for the current, relatively benign, security environment. Two types of **institutional innovations are within reach**. First, governments that agree on an agenda of deeper economic integration — tackling behind-the-border barriers to trade and investment — could break with the existing institutional mold in favor of more binding agreements and organizations with more authority to monitor their members and to enforce those agreements. ASeAn + 3 and **the** Trans-Pacific Partnership (**TPP) are likely sites for such a move**. At the same time, a region-wide organization that bridges economic and security agendas could permit programs of political reconciliation and possible military confidence building that have furthered economic co-operation in other regions. The east Asian Summit incorporates all of the major powers required for such an institution, although its current shapeless agenda and informal organization would need to change. will another, larger economic shock be required to move the institutional agenda forward? Politicians, long suspicious of strong regional authority, will need to recognize a link between economic prosperity, their success and a new agenda of deeper regional economic integration. If new institutional structures are undertaken to seal those regional commitments, economics and security in Asia may reinforce one another, lowering political and military risks to the region’s intricate web of economic relations.

#### Nuclear war

**Eland 12-10**-13 [Ivan Eland,PhD in Public Policy from George Washington University, Senior Fellow and Director of the Center on Peace & Liberty at The Independent Institute, has been Director of Defense Policy Studies at the Cato Institute, and he spent 15 years working for Congress on national security issues, including Principal Defense Analyst at the Congressional Budget Office, has served as Evaluator-in-Charge for the U.S. General Accounting Office, “Stay Out of Petty Island Disputes in East Asia,” <http://www.huffingtonpost.com/ivan-eland/stay-out-of-petty-island-_b_4414811.html>]

One of the most dangerous international disputes that the United States could get dragged into has little importance to U.S. security -- the disputes nations have over small islands (some really rocks rising out of the sea) in East Asia. Although any war over these islands would rank right up there with the absurd Falkland Islands war of 1982 between Britain and Argentina over remote, windswept sheep pastures near Antarctica, any conflict in East Asia always has the potential to escalate to nuclear war. And unlike the Falklands war, the United States might be right in the atomic crosshairs.¶ Of the two antagonists in the Falklands War, only Britain had nuclear weapons, thus limiting the possibility of nuclear escalation. And although it is true that of the more numerous East Asian contenders, only China has such weapons, the United States has formal alliance commitments to defend three of the countries in competition with China over the islands -- the Philippines, Japan, and South Korea -- and an informal alliance with Taiwan. Unbeknownst to most Americans, those outdated alliances left over from the Cold War implicitly still commit the United States to sacrifice Seattle or Los Angeles to save Manila, Tokyo, Seoul, or Taipei, should one of these countries get into a shooting war with China. Though a questionable tradeoff even during the Cold War, it is even less so today. The "security" for America in this implicit pledge has always rested on avoiding a faraway war in the first place using a tenuous nuclear deterrent against China or any other potentially aggressive power. The deterrent is tenuous, because friends and foes alike might wonder what rational set of U.S. leaders would make this ridiculously bad tradeoff if all else failed. ¶ Of course these East Asian nations are not quarreling because the islands or stone outcroppings are intrinsically valuable, but because primarily they, depending on the particular dispute involved, are in waters that have natural riches -- fisheries or oil or gas resources. ¶ In one dispute, the Senkaku or Diaoyu dispute -- depending on whether the Japanese or Chinese are describing it, respectively -- the United States just interjected itself, in response to the Chinese expansion of its air defense zone over the islands, by flying B-52 bombers through this air space to support its ally Japan. The United States is now taking the nonsensical position that it is neutral in the island kerfuffle, even though it took this bold action and pledged to defend Japan if a war ensues. Predictably and understandably, China believes that the United States has chosen sides in the quarrel.¶ Then to match China, South Korea extended its own air defense zone -- so that it now overlaps that of both China and Japan. But that said, as a legacy of World War II, South Korea seems to get along better with China, its largest trading partner, than it does with Japan. Also, South Korea and Japan have a dispute over the Dokdo or Takeshima Islands, depending on who is describing them, in the Sea of Japan. Because the United States has a formal defense alliance with each of those nations and stations forces in both, which would it support if Japan and South Korea went to war over the dispute? It's anyone's guess.

## 1NC SpecOps PIC

**CP Text: The United States Congress should require a declaration of war for any decision to use or deploy armed forces with the exception of Special Operations forces in circumstances likely to lead to an armed attack.**

**Congress should define “armed attack” as: The use of force of a magnitude that is likely to produce serious consequences, epitomized by territorial intrusions, human casualties, or considerable destruction of property.**

**Congress should allow an exception in the event of an armed attack against the United States requiring the urgent use of armed forces making prior approval from the legislature impractical. Congress should require immediate notice of such a determination, and shall require a declaration of war within 14 days or the executive shall cease such use of armed force.**

#### Plan would collapse the effectiveness of Special Forces missions

**Maher 10** (Larry Maher 10, Quartermaster General, Veterans of Foreign Wars, et al, 9/30/10, BRIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS AND DISMISSAL, Nasser al-Aulaqi, Plaintiff, vs. Barack H. Obama, et al., Defendants, <http://www.lawfareblog.com/wp-content/uploads/2010/10/VFW_Brief_PACER.pdf> )

Finally, the VFW’s membership includes many current and former members of the U.S. armed forces’ elite special operations forces—Army Rangers and Special Forces, Navy SEALs, Air Force parajumpers and combat controllers, and Marine Corps Force Reconnaissance personnel, among others. These elite warriors conduct highly dangerous missions today in Iraq, Afghanistan, and other countries around the world. By definition, special operations “are operations conducted in hostile, denied, or politically sensitive environments to achieve military, diplomatic, informational, and/or economic objectives employing military capabilities for which there is no broad conventional force requirement. These operations often require covert, clandestine, or low-visibility capabilities.” U.S. Joint Chiefs of Staff, Joint Pub. 3-05, Doctrine for Joint Special Operations, at I-1 (2003), available at http://www.dtic.mil/doctrine/new\_pubs/jp3\_05.pdf. Special operations are differentiated from conventional operations in many ways, but foremost among these are their “degree of physical and political risk, operational techniques, mode of employment, independence from friendly support, and dependence on detailed operational intelligence and indigenous assets.” Id. “Surprise is often the most important principle in the conduct of successful [special operations] and the survivability of employed [special operations forces],” and the very nature of special operations requires “high levels of security . . . to protect the clandestine/covert nature of missions.” Id. at I-6. More than mission accomplishment is at stake—“[g]iven their operating size, [special operations teams] are more vulnerable to potential hostile reaction to their presence than larger conventional units,” and therefore the protection of sources and methods is essential for the survival of special operations forces. Id. To preserve this element of surprise, special operations forces must broadly conceal their tactics, techniques and procedures, including information about unit locations and movements, targeting decisions, and operational plans for future missions. Disclosure of this information would allow this nation’s adversaries to defend themselves more effectively, potentially inflicting more casualties upon U.S. special operations forces. Such disclosure would also provide information about how the U.S. military gathers information about its adversaries, enabling terrorist groups like Al Qaeda to alter its communications and activities in order to evade future detection and action by the U.S. Government. Such harm would not be limited to just this instance or terrorist group group; these disclosures would also provide future terrorist adversaries and military adversaries with insight into U.S. special operations capabilities which would enable them to counter such capabilities in future conflicts. Cf. Public Declaration of Robert M. Gates, Secretary of Defense, Govt. Exhibit 4, September 23, 2010, at ¶¶ 6-7.

#### Effective SpecOps forces are key to countering terror through intel

**Johnson 6**, Matthew, Professor at Missouri State University [“The Growing Relevance of Special Operations Forces in U.S. Military Strategy,” http://www.citadel.edu/smll/Seminar/Additional%20Resources/Johnson,%20The%20Growing%20Relevance%20of%20Special%20Operations%20Forces%20in%20US%20Military%20Strategy,%202006.pdf]

The current security environment will continue to be dominated by asymmetric threats from nonstate and small lethal groups employing unconventional tactics for at least the next several decades. SOF is likely to play a prominent role in future operations involving terrorism, unconventional threats, and counterproliferation of WMD. SOCOM officials and military experts have expressed their desire to expand the use of SOF as “global scouts” for the GWOT. This use of SOF involves not only clandestine intelligence gathering but other traditional military activities under the broad category of preparation of the battle-space. A large part of the overt mission of “global scouts” falls to Army SF, with their extensive contacts and experience with foreign militaries.87 Such operations would involve cooperating with host nations to identify newor emerging terrorist groups and provide rapid response to any crisis.88 The clandestine aspect of SOF mission as “global scouts” will likely involve intelligence gathering and limited direct action missions with possible operations involving the CIA paramilitary and special mission units. At present, SOF are reportedly operating intelligence-gathering missions from U.S. embassies, an issue that has caused tension between the Defense Department, the State Department, and the CIA.89 Others believe that SOF units, particularly SF units, must have much longer deployments overseas and that there should be permanent assignment of SOCOM assets to “watch the hundred-plus terrorist groups and insurgencies around the world.”90 The SOF units assigned to this task would ideally be in a position, along with CIA assets and resources, to both warn the U.S. national leadership and develop plans for missions that SOCOM would perform alone or in conjunction with other agencies. This approach has the benefit of placing a large emphasis upon cooperation with local allies and forces. The threat of rogue states—particularly Iran and North Korea—and the possibility of a coup in Pakistan makes SOF role in counterproliferation even more urgent. The ambivalent future of U.S.-Chinese relations is an open question and the role of SOF facing a potential Chinese advisory is not yet fully formulated. The prominence of SOF beyond the GWOT is uncertain. Ambiguity surrounding when or even if an end to the GWOT can be declared may ensure continued prestige and new responsibilities. SOF may also transition to address other non-state actor threats such as transnational criminals or significantly increase their current role against drug traffickers. Fortunately, the history of SOF has demonstrated the ability of these units to adapt to new challenges and situations.

#### Intel is key in winning on the war on terror

Anna-Katherine Staser **McGill 12**, School of Graduate and Continuing Studies in Diplomacy, Norwich University, David Gray, Campbell University, Summer 2012, “Challenges to International Counterterrorism Intelligence Sharing,” http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf

In his article “Old Allies and New Friends: Intelligence-Sharing in the War on Terror”, Derek Reveron states “the war on terror requires high levels of intelligence to identify a threat relative to the amount of force required to neutralize it” as opposed to the Cold War where the opposite was true (455). As a result, intelligence is the cornerstone of effective counterterrorism operations in the post 9/11 world. Though the United States has the most robust intelligence community in the world with immense capability, skills, and technology, its efficiency in counterterrorism issues depends on coalitions of both traditional allies and new allies. Traditional allies offer a certain degree of dependability through a tried and tested relationship based on similar values; however, newly cultivated allies in the war on terrorism offer invaluable insight into groups operating in their own back yard. The US can not act unilaterally in the global fight against terrorism. It doesn’t have the resources to monitor every potential terrorist hide-out nor does it have the time or capability to cultivate the cultural, linguistic, and CT knowledge that its new allies have readily available. The Department of Defense’s 2005 Quadrennial Review clearly states that the United States "cannot meet today's complex challenges alone. Success requires unified statecraft: the ability of the U.S. government to bring to, bear all elements of national power at home and to work in close cooperation with allies and partners abroad" (qtd in Reveron, 467). The importance of coalition building for the war on terrorism is not lost on US decision-makers as seen by efforts made in the post 9/11 climate to strengthen old relationships and build new ones; however, as seen in the following sections, the possible hindrances to effective, long term CT alliances must also be addressed in order to sustain current operations.

#### Extinction

Toon et al 7 – Owen B. Toon, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

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

## 1NC Flex DA

#### Congressional restraints spill over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

#### That goes nuclear

Li ‘9

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

## 1NC Inevitable

#### Future presidents take out solvency

**Harvard Law Review 12**, "Developments in the Law: Presidential Authority," Vol. 125:2057, www.harvardlawreview.org/media/pdf/vol125\_devo.pdf

The recent history of signing statements demonstrates how public opinion can effectively check presidential expansions of power by inducing executive self-binding. It remains to be seen, however, if this more restrained view of signing statements can remain intact, for **it relies on the promises of one branch — indeed of one person — to enforce and maintain the separation of powers**. To be sure, President Obama’s guidelines for the use of signing statements contain all the hallmarks of good executive branch policy: transparency, accountability, and fidelity to constitutional limitations. Yet, in practice, this apparent constraint (however well intentioned) may amount to little more than voluntary self-restraint. 146 Without a formal institutional check, it is unclear what mechanism will prevent the next President (or President Obama himself) from reverting to the allegedly abusive Bush-era practices. 147 Only time, and perhaps public opinion, will tell.

#### Empowerment of the hawks takes out solvency – they will continue to force him to authorize conflict

GARANCE **FRANKE-RUTA – 9/3/13**, The Atlantic, senior editor covering national politics at The Atlantic, How a Congressional Authorization Could Escalate U.S. Intervention in Syria, The Atlantic, <http://www.theatlantic.com/politics/archive/2013/09/how-a-congressional-authorization-could-escalate-us-intervention-in-syria/279248/>

Now, if Obama gets congressional approval, he'll be getting it in what is likely to remain a fairly open-ended way, as part of a strategy with bigger aims, and owe his legislative success in part to the support of the most hawkish members of Congress. Is there any doubt they will continue to pressure him to act under the authorization they will have granted him, and that his White House requested? And that the forces gunning for intervention, once mobilized, will have a momentum of their own?

## 1NC US Will Lose Wars

#### Congressional influence doesn’t lead to better war decision making – empirical evidence

**Nzelibe and Yoo 2005** - Assistant Professor of Law, Northwestern University Law School AND Professor of Law, University of California at Berkeley School of Law (Jide and John, “Rational War and Constitutional Design ” 115 Yale L.J. 2512 (2005), <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1067&context=facpubs>)

Bur before accepting this seemingly attractive vision, we should ask whether the Congress-first system lives up to its promises. In other words, has requiring congressional ex ante approval for foreign wars produced less war, better decision-making, or greater consensus? A cursory review of previous American wars does not suggest that requiring congressional authorization before the use of force invariably produces better decision-making. For example, the declarations of war initiating the Mexican-American and Spanish-American Wars did not result from extensive deliberation or necessarily result in good policy. Although both wars benefited the United States by expanding the nation's territory and enhancing its presence on the world stage,14 they remained offensive wars of conquest. Nor is it clear that congressional participation has resulted in greater consensus. Congress approved both the Vietnam and the 2003 Iraq Wars, but both have produced sharp divisions in American domestic politics.

#### Legal contraints aren’t the answer – party loyalty determines if Congress will check the president – takes out deliberation internal because it means there are no productive debates on the floor

William G. **Howell and** Jon C. **Pevehouse – 2007**, Associate Professors at the Harris School of Public Policy at the University of Chicago, When Congress Stops Wars: Partisan Politics and Presidential Power, Foreign Affairs, Vol. 86, No. 5 (Sep. - Oct., 2007), pp. 95-107, http://themonkeycage.org/wp-content/uploads/2013/09/Howell-Pevehouse-2007-1.pdf

FOR MOST of George W. Bush's tenure, political observers have lambasted Congress for failing to fulfill its basic foreign policy obligations. Typical was the recent Foreign Affairs article by Norman Ornstein and Thomas Mann, "When Congress Checks Out," which offered a sweeping indictment of Congress' failure to monitor the president's execution of foreign wars and antiterrorist initiatives. Over the past six years, they concluded, congressional oversight of the White House's foreign and national security policy "has virtually collapsed." Ornstein and Mann's characterization is hardly unique. Numerous constitutional-law scholars, political scientists, bureau crats, and even members of Congress have, over the years, lamented the lack of legislative constraints on presidential war powers. But the dearth of congressional oversight between 2000 and 2006 is nothing new. Contrary to what many critics believe, terrorist threats, an overly aggressive White House, and an impotent Democratic Party are not the sole explanations for congressional inactivity over the past six years. Good old-fashioned partisan politics has been, and continues to be, at play. It is often assumed that everyday politics stops at the water's edge and that legislators abandon their partisan identities during times of war in order to become faithful stewards of their constitutional obligations. But this received wisdom is almost always wrong. The illusion of congressional wartime unity misconstrues the nature of legislative oversight and fails to capture the particular conditions under which members of Congress are likely to emerge as meaningful critics of any particular military venture. The partisan composition of Congress has historically been the decisive factor in determining whether lawmakers will oppose or acquiesce in presidential calls for war. From Harry Truman to Bill Clinton, nearly every U.S. president has learned that members of Congress, and members of the opposition party in particular, are fully capable of interjecting their opinions about proposed and ongoing military ventures. When the opposition party holds a large number of seats or controls one or both chambers of Congress, members routinely challenge the president and step up oversight of foreign conflicts; when the legislative branch is dominated by the president's party, it generally goes along with the White House. Partisan unity, not institutional laziness, explains why the Bush administration's Iraq policy received such a favorable hearing in Congress from 2000 to 2006. The dramatic increase in congressional oversight following the 2oo6 midterm elections is a case in point. Immediately after assuming control of Congress, House Democrats passed a resolution condemning a proposed "surge" of U.S. troops in Iraq and Senate Democrats debated a series of resolutions expressing varying degrees of outrage against the war in Iraq. The spring 2007 supplemental appropriations debate resulted in a House bill calling for a phased withdrawal (the president vetoed that bill, and the Senate then passed a bill accepting more war ftinding without withdrawal provisions). Democratic heads of committees in both chambers continue to launch hearings and investigations into the various mishaps, scandals, and tactical errors that have plagued the Iraq war. By all indications, if the govern ment in Baghdad has not met certain benchmarks by September, the Democrats will push for binding legislation that further restricts the president's ability to sustain military operations in Iraq.

#### Groupthink theory is wrong

**Hempell, User Experience Consulting Senior Information Architect, 2004**

(Anthony, “Groupthink: An introduction to Janis' theory of concurrence-seeking tendencies in group work”, 3-3, http://www.anthonyhempell.com/papers/groupthink/)

In the thirty years since Janis first proposed the groupthink model, there is still little agreement as to the validity of the model in assessing decision-making behaviour (Park, 2000). Janis' theory is often criticized because it does not present a framework that is suitable for empirical testing; instead, the evidence for groupthink comes from largely qualitative, historical or archival methods (Sunstein, 2003). Some critics go so far as to say that Janis's work relies on "anecdote, casual observation, and intuitive appeal rather than rigorous research" (Esser, 1998, cited in Sunstein, 2003, p.142). While some studies have shown support for the groupthink model, the support tends to be mixed or conditional (Esser, 1998); some studies have revealed that a closed leadership style and external threats (in particular, time pressure) promote groupthink and defective decision making (Neck & Moorhead, 1995, cited by Choi & Kim, 1999); the effect of group cohesiveness is still inconclusive (Mullen, Anthony, Salas & Driskel, 1994, cited by Choi & Kim, 1999). Janis's model tends to be supported by studies that employ a qualitative case-study approach as opposed to experimental research, which tends to either partially support or not support Janis's thesis (Park, 2000). The lack of success in experimental validation of groupthink may be due to difficulties in operationalizing and conceptualizing it as a testable variable (Hogg & Hains, 1998; Park, 2000). Some researchers have criticized Janis for categorically denouncing groupthink as a negative phenomenon (Longley & Pruitt, 1980, cited in Choi & Kim, 1999). Sniezek (1992) argues that there are instances where concurrence-seeking may promote group performance. When used to explain behaviour in a practical setting, groupthink has been frames as a detrimental group process; the result of this has been that many corporate training programs have created strategies for avoiding groupthink in the workplace (Quinn, Faerman, Thompson & McGrath, 1990, cited in Choi & Kim, 1999). Another criticism of groupthink is that Janis overestimates the link between the decision-making process and the outcome (McCauley, 1989; Tetlock, Peterson, McGuire, Chang & Feld, 1992; cited in Choi & Kim, 1999). Tetlock et al argue that there are many other factors between the decision process and the outcome. The outcome of any decision-making process, they argue, will only have a certain probability of success due to various environmental factors (such as luck). A large-scale study researching decision-making in seven major American corporations concluded that decision-making worked best when following a sound information processing method; however these groups also showed signs of groupthink, in that they had strong leadership which attempted to persuade others in the group that they were right (Peterson et al, 1998, cited in Sunstein, 2003). Esser (1998) found that groupthink characteristics were correlated with failures; however cohesiveness did not appear to be a factor: groups consisting of strangers, friends, or various levels of previous experience together did not appear to effect decision-making ability. Janis' claims of insulation of groups and groups led by autocratic leaders did show that these attributes were indicative of groupthink symptoms. Moorhead & Montanari conducted a study where they concluded that groupthink symptoms had no significant effect on group performance, and that "the relationship between groupthink-induced decision defects and outcomes were not as strong as Janis suggests" (Moorhead & Montanari, 1986, p. 399; cited by Choi & Kim, 1999).

## 1NC Losing Is Bad

#### Heg ineffective – six constraints on action make exercising it ineffective

**Legro 11** \*Jeffrey W Legro is Randolph P Compton Professor at the University of Virginia [Jeffrey W Legro (2011): The mix that makes unipolarity: hegemonic purpose

and international constraints, Cambridge Review of International Affairs, 24:2, 185-199, July 26th]

Systemic constraints under unipolarity: not gone¶ We cannot, however, understand unipolarity through a sole focus on unipolar¶ purpose. This is because even under unipolarity when one country has immense¶ power and greater ability to shape the system, there are global conditions that¶ limit the desirability and efficacy of unipole effort.¶ Brooks and Wohlforth contend that this is not the case: a hegemon in a¶ unipolar world will not be subject to significant systemic constraints. Well, that is¶ their explicit argument, but they qualify it in a piecemeal way and when the pieces¶ are put together with others they do not consider, the picture may be a different¶ one. Their analysis fingers three constraints and there are at least three others that¶ escape their reach.5¶ The first constraint involves the potential that other countries will oppose the¶ hegemon under unipolarity. Brooks and Wohlforth suggest this need not happen.¶ They do an excellent job debunking the notion that balancing is constraining the¶ United States today. Yet they also acknowledge that balancing is possible if states¶ view their security as sufficiently challenged. At the extreme, if the United States¶ tried to ‘run the table’ with a strategy of global aggression and domination, Brooks¶ and Wohlforth do expect balancing. Thus the lack of balancing depends on a¶ perception that the United States is not likely to attempt domination. For example,¶ the United States, with a reputation for geopolitical restraint (even if diminished¶ in recent years), provokes less reaction than would a Napoleonic France or Fascist¶ Germany with the same power advantages. Balancing, therefore, can occur under¶ some circumstances (for example, different perceptions of hegemonic intent) even¶ in unipolarity.¶ Second, states will also constrain the United States if they have important¶ opposing interests not related to security. Brooks andWohlforth count this as part¶ of their argument as long as it does not involve the security concerns central to¶ balancing theory. Thus if other countries resist the United States due to economic¶ interests, regional security concerns, disagreements over non-security issues, or¶ domestic policy issues, this would not be security balancing or evidence against¶ their thesis.¶ In this view, the Russian-Chinese strategic partnership in the Shanghai¶ Cooperation Organization is not about offsetting the United States, but is instead¶ about arms sales and fighting terrorism in their region. Likewise, Russia’s ties to¶ Tehran have commercial and regional security roots. And opposition to the Iraq¶ War in places like Germany and Turkey is seen as a product of ‘long term domestic¶ political dynamics’ rather than a reaction to the concentration of US power.¶ Brooks andWohlforth’s argument is not that other countries will not constrain¶ the unipole; it is that they will not do so simply because of the unipole’s¶ extraordinary power. Yet it is clear that international order is dependent not just¶ on unipolarity but also on the distribution of interests. Variations in international¶ order, given a constant power distribution, may still occur if there are splits in¶ purpose between the hegemon and significant, if lesser, countries. Rifts between¶ the United States and Europe over such issues as UN reform, the WTO, and the¶ Middle East have hampered global governance and US aims in those areas¶ (Abdelal and Segal 2007). The structure of interests among major countries is a¶ constraint on US actions. Strategies, security or otherwise, that do not attend to¶ those interests will suffer.¶ Third, Brooks and Wohlforth’s analysis of legitimacy adds further caveats to¶ their argument. As with the other systemic constraints, they find that the need for¶ legitimacy does not provide a strong check on US policy. They do however¶ conclude that legitimacy is a ‘weakly conditional’ constraint. They insightfully¶ explore how dominant powers have many tools to shape strategically what¶ constitutes legitimacy and paper over the instances where they prefer to ignore¶ the rules. But ultimately hegemons ‘want and need rules and the legitimation¶ that they bring’ (Brooks and Wohlforth 2008, 207). Those rules for that very¶ reason must have some integrity. Hegemons, it might be said, can shape the¶ rules of order, but not always exactly as they please, and sometimes at significant¶ cost. The United States did not want to alter existing practices on landmines¶ but due to the Ottawa Treaty aimed at banning their use, it has had to spend¶ much money looking for military alternatives not to mention the international¶ and domestic political costs of resisting such a law (Finnemore 2009;¶ Landler 2010).¶ A fourth systemic constraint that deserves more weight involves¶ transaction and sunk costs that reduce incentives to change and or create¶ new institutions.6 One of the reasons the United States has not attempted a¶ redesign of international architecture may indeed be the heavy costs involved. For¶ example, NATO endures not because it is optimal to deal with the new threats¶ beyond Europe, but instead because it already exists and is too expensive to¶ reinvent. Other institutions that fit this vein include the Nuclear Non-Proliferation¶ Treaty and the United Nations. These institutions may not allow the United States¶ to get everything it wants but it would be even more costly to create new¶ institutions. Relative transactions (or sunk) costs contain Goliath.¶ The fifth systemic constraint is timing. It is easier for the top dog of international¶ politics to work its will in the international arena at some times versus others. For¶ example, it is often argued that major crises or wars present opportunities for¶ systemic transformation with little pushback (Krasner 1976; Ikenberry 2000; Olson¶ 1982; Higgs 1987; Goldstone 1991; Khong 1992). Thus the Concert of Europe came¶ out of the Napoleonic Wars, the League of Nations from World War I, the United¶ Nations fromWorldWar II, and so on. Such times involve conditions that facilitate¶ change including, not only an altered balance of power, but also war or economic¶ weariness, the desire to avoid prior problems, and the emergence of new domestic¶ coalitions and policy ideas. The general point is that the hegemon will be more or¶ less likely to receive pushback on its efforts to redo the international system¶ depending on whether extraordinary events act as an icebreaker on political¶ inertia. Timing has arguably not been favourable to unipolar revisionism with the¶ possible exception of post 9/11—an opportunity neutralized by the perceived¶ failure of the Bush doctrine. Absent such conditions, inertia tends to dominate and¶ a hegemon that recognizes this knows that changing the rules of the game will be¶ more difficult.¶ The sixth constraint involves domestic politics. Brooks and Wohlforth do note¶ that domestic resistance, not systemic constraints, might limit resources to pursue¶ activism. Their thesis, however, is about the lack of systemic constraints. What¶ deserves more attention, however, is the way that systemic factors in world¶ politics might inspire US domestic opposition to primacy. It seems that systemic¶ effects—perhaps other states opposing the United States, a loss of trading¶ privileges, or anti-American sentiment, arguably does mould US domestic¶ resistance to global projects.¶ For example, perhaps part of the reason for the turn of domestic opinion¶ against the policy activism of the ‘Bush doctrine’ related to the decline in US¶ international standing. The American public may view US international standing¶ as a type of performance criteria for presidents and administrations. There is some¶ evidence that US presidential approval ratings are influenced by satisfaction¶ rankings of the United States’ global position (Task Force on US Standing inWorld¶ Affairs 2009, 20–23). Standing functions as a proxy for presidential performance¶ and hence can be a constraint. Americans thought less of President Bush and his¶ agenda because the reaction abroad was so negative. Indeed, there have been¶ reports that Vice President Cheney believed Bush became too sensitive to public¶ opinion in the second term (Gellman 2009).¶ The cumulative effect of these six constraints—reputation for restraint,¶ interests, legitimacy, sunk costs, timing, and domestic externalities—seem to add¶ up to something more significant than merely an asterisk to the thesis that¶ systemic constraints are not binding. It appears that even under unipolarity, the¶ international system can limit the dominant power. Goliath may not be bound, but¶ the hurdles faced may discourage or channel action in ways that cannot be¶ understood without taking them into account.¶

#### No impact to the material decline anyways – multilateral institutions check decline

**Cohen and Zenko 12** \*Micah Zenko is a Fellow in the Center for Preventive Action at the Council on Foreign Relations. Michael A. Cohen is a Fellow at the Century Foundation [March/April 2012, Clear and Present Safety: The United States Is More Secure Than Washington Thinks, Foreign Affairs]

Last August, the Republican presidential contender Mitt Romney performed what has become a quadrennial rite of passage in American presidential politics: he delivered a speech to the annual convention of the Veterans of Foreign Wars. His message was rooted in another grand American tradition: hyping foreign threats to the United States. It is "wishful thinking," Romney declared, "that the world is becoming a safer place.The opposite is true. Consider simply the jihadists, a near- nuclear Iran, a turbulent Middle East, an unstable Pakistan, a delusional North Korea, an assertive Russia, and an emerging global power called China. No, the world is not becoming safer." Not long after, U.S. Secretary of Defense Leon Panetta echoed Romney's statement. In a lecture last October, Panetta warned of threats arising "from terrorism to nuclear proliferation; from rogue states to cyber attacks; from revolutions in the Middle East, to economic crisis in Europe, to the rise of new powers such as China and India. All of these changes represent security, geopolitical, economic, and demographic shifts in the international order that make the world more unpredictable, more volatile and, yes, more dangerous." General Martin Dempsey, chairman of the Joint Chiefs of Staff, concurred in a recent speech, arguing that "the number and kinds of threats we face have increased significantly." And U.S. Secretary of State Hillary Clinton reinforced the point by claiming that America resides today in a "very complex, dangerous world." Within the foreign policy elite, there exists a pervasive belief that the post-Cold War world is a treacherous place, full of great uncertainty and grave risks. A 2009 survey conducted by the Pew Research Center for the People and the Press found that 69 percent of members of the Council on Foreign Relations believed that for the United States at that moment, the world was either as dangerous as or more dangerous than it was during the Cold War. Similarly, in 2008, the Center for American Progress surveyed more than 100 foreign policy experts and found that 70 percent of them believed that the world was becoming more dangerous. Perhaps more than any other idea, this belief shapes debates on U.S. foreign policy and frames the public's understanding of international affairs. There is just one problem. It is simply wrong. The world that the United States inhabits today is a remarkably safe and secure place. It is a world with fewer violent conflicts and greater political freedom than at virtually any other point in human history. All over the world, people enjoy longer life expectancy and greater economic opportunity than ever before.The United States faces no plausible existential threats, no great-power rival, and no near-term competition for the role of global hegemon. The U.S. military is the world's most powerful, and even in the middle of a sustained downturn, the U.S. economy remains among one of the world's most vibrant and adaptive. Although the United States faces a host of international challenges, they pose little risk to the overwhelming majority of American citizens and can be managed with existing diplomatic, economic, and, to a much lesser extent, military tools. This reality is barely reflected in U.S. national security strategy or in American foreign policy debates. President Barack Obama's most recent National Security Strategy aspires to "a world in which America is stronger, more secure, and is able to overcome our challenges while appealing to the aspirations of people around the world." Yet that is basically the world that exists today. The United States is the world's most powerful nation, unchallenged and secure. But the country's political and policy elite seems unwilling to recognize this fact, much less integrate it into foreign policy and national security decision-making. The disparity between foreign threats and domestic threatmongering results from a confluence of factors. The most obvious and important is electoral politics. **Hyping dangers serves the interests of both political parties.** For Republicans, who have long benefited from attacking Democrats for their alleged weakness in the face of foreign threats, there is little incentive to tone down the rhetoric; the notion of a dangerous world plays to perhaps their greatest political advantage. For Democrats, who are fearful of being cast as feckless, acting and sounding tough is a shield against gop attacks and an insurance policy in case a challenge to the United States materializes into a genuine threat. **Warnings about a dangerous world also benefit powerful bureaucratic interests**. The specter of looming dangers sustains and justifies the massive budgets of the military and the intelligence agencies, along with the national security infrastructure that exists outside government-defense contractors, lobbying groups, think tanks, and academic departments. There is also a pernicious feedback loop at work. Because of the chronic exaggeration of the threats facing the United States, Washington overemphasizes military approaches to problems (including many that could best be solved by nonmilitary means). The militarization of foreign policy leads, in turn, to further dark warnings about the potentially harmful effects of any effort to rebalance U.S. national security spending or trim the massive military budget- warnings that are inevitably bolstered by more threat exaggeration. Last fall, General Norton Schwartz, the U.S. Air Force chief of staff, said that defense cuts that would return military spending to its 2007 level would undermine the military's "ability to protect the nation" and could create "dire consequences." Along the same lines, Panetta warned that the same reductions would "invite aggression" from enemies. These are a puzzling statements given that the U.S. defense budget is larger than the next 14 countries' defense budgets combined and that the United States still maintains weapons systems designed to fight an enemy that disappeared 20 years ago. Of course, threat inflation is not new. During the Cold War, although the United States faced genuine existential threats, American political leaders nevertheless hyped smaller threats or conflated them with larger ones. Today, there are no dangers to the United States remotely resembling those of the Cold War era, yet policymakers routinely talk in the alarmist terms once used to describe superpower conflict. Indeed, the mindset of the United States in the post-9/11 world was best (albeit crudely) captured by former Vice President Dick Cheney. While in o/ce, Cheney promoted the idea that the United States must prepare for even the most remote threat as though it were certain to occur. The journalist Ron Suskind termed this belief "the one percent doctrine," a reference to what Cheney called the "one percent chance that Pakistani scientists are helping al Qaeda build or develop a nuclear weapon." According to Suskind, Cheney insisted that the United States must treat such a remote potential threat "as a certainty in terms of our response." Such hair-trigger responsiveness is rarely replicated outside the realm of national security, even when the government confronts problems that cause Americans far more harm than any foreign threat. According to an analysis by the budget expert Linda Bilmes and the economist Joseph Stiglitz, in the ten years since 9/11, the combined direct and indirect costs of the U.S. response to the murder of almost 3,000 of its citizens have totaled more than $3 trillion. A study by the Urban Institute, a nonpartisan think tank, estimated that during an overlapping period, from 2000 to 2006, 137,000 Americans died prematurely because they lacked health insurance. Although the federal government maintains robust health insurance programs for older and poor Americans, its response to a national crisis in health care during that time paled in comparison to its response to the far less deadly terrorist attacks. Rather than Cheney's one percent doctrine, what the United States actually needs is a 99 percent doctrine: a national security strategy based on the fact that the United States is a safe and well- protected country and grounded in the reality that the opportunities for furthering U.S. interests far exceed the threats to them. Fully comprehending the world as it is today is the best way to keep the United States secure and resistant to the overreactions that have defined its foreign policy for far too long. Better than ever The United States, along with the rest of the world, currently faces a period of economic and political uncertainty. But consider four long-term global trends that underscore just how misguided the constant fear-mongering in U.S. politics is: the falling prevalence of violent conflict, the declining incidence of terrorism, the spread of political freedom and prosperity, and the global improvement in public health. In 1992, there were 53 armed conflicts raging in 39 countries around the world; in 2010, there were 30 armed conflicts in 25 countries. Of the latter, only four have resulted in at least 1,000 battle-related deaths and can therefore be classified as wars, according to the Uppsala Conflict Data Program: the conflicts in Afghanistan, Iraq, Pakistan, and Somalia, two of which were started by the United States. Today, wars tend to be low-intensity conflicts that, on average, kill about 90 percent fewer people than did violent struggles in the 1950s. Indeed, the first decade of this century witnessed fewer deaths from war than any decade in the last century. Meanwhile, the world's great powers have not fought a direct conflict in more than 60 years-"the longest period of major power peace in centuries," as the Human Security Report Project puts it. Nor is there much reason for the United States to fear such a war in the near future: no state currently has the capabilities or the inclination to confront the United States militarily. Much of the fear that suffuses U.S. foreign policy stems from the trauma of 9/11. Yet although the tactic of terrorism remains a scourge in localized conflicts, between 2006 and 2010, the total number of terrorist attacks declined by almost 20 percent, and the number of deaths caused by terrorism fell by 35 percent, according to the U.S. State Department. In 2010, more than three-quarters of all victims of terrorism-meaning deliberate, politically motivated violence by nonstate groups against noncombatant targets-were injured or killed in the war zones of Afghanistan, Iraq, Pakistan, and Somalia. Of the 13,186 people killed by terrorist attacks in 2010, only 15, or 0.1 percent, were U.S. citizens. In most places today-and especially in the United States-the chances of dying from a terrorist attack or in a military conflict have fallen almost to zero. As violence and war have abated, freedom and democratic governance have made great gains. According to Freedom House, there were 117. And during that time, the number of autocracies declined from 62 to 48. To be sure, in the process of democratizing, states with weak political institutions can be more prone to near-term instability, civil wars, and interstate conflict. Nevertheless, over time, democracies tend to have healthier and better-educated citizens, almost never go to war with other democracies, and are less likely to fight nondemocracies. Economic bonds among states are also accelerating, even in the face of a sustained global economic downturn. Today, 153 countries belong to the World Trade Organization and are bound by its dispute-resolution mechanisms. Thanks to lowered trade barriers, exports now make up more than 30 percent of gross world product, a proportion that has tripled in the past 40 years. The United States has seen its exports to the world's fastest-growing economies increase by approximately 500 percent over the past decade. Currency flows have exploded as well, with $4 trillion moving around the world in foreign exchange markets every day. Remittances, an essential instrument for reducing poverty in developing countries, have more than tripled in the past decade, to more than $440 billion each year. Partly as a result of these trends, poverty is on the decline: in 1981, half the people living in the developing world survived on less than $1.25 a day; today, that figure is about one-sixth. Like democratization, economic development occasionally brings with it significant costs. In particular, economic liberalization can strain the social safety net that supports a society's most vulnerable populations and can exacerbate inequalities. Still, from the perspective of the United States, increasing economic interdependence is a net positive because trade and foreign direct investment between countries generally correlate with long-term economic growth and a reduced likelihood of war. A final trend contributing to the relative security of the United States is the improvement in global health and well-being. People in virtually all countries, and certainly in the United States, are living longer and healthier lives. In 2010, the number of people who died from aids- related causes declined for the third year in a row. Tuberculosis rates continue to fall, as do the rates of polio and malaria. Child mortality has plummeted worldwide, thanks in part to expanded access to health care, sanitation, and vaccines. In 1970, the global child mortality rate (deaths of children under five per 1,000) was 141; in 2010, it was 57. In 1970, global average life expectancy was 59, and U.S. life expectancy was 70. Today, the global figure is just under 70, and the U.S. figure is 79. These vast improvements in health and well-being contribute to the global trend toward security and safety because countries with poor human development are more war-prone. Phantom menace None of this is meant to suggest that the United States faces no major challenges today. Rather, the point is that the problems confronting the country are manageable and pose minimal risks to the lives of the overwhelming majority of Americans. None of them-separately or in combination-justifies the alarmist rhetoric of policymakers and politicians or should lead to the conclusion that Americans live in a dangerous world. Take terrorism. Since 9/11, no security threat has been hyped more. Considering the horrors of that day, that is not surprising. But the result has been a level of fear that is completely out of proportion to both the capabilities of terrorist organizations and the United States' vulnerability. On 9/11, al Qaeda got tragically lucky. Since then, the United States has been preparing for the one percent chance (and likely even less) that it might get lucky again. But al Qaeda lost its safe haven after the U.S.-led invasion of Afghanistan in 2001, and further military, diplomatic, intelligence, and law enforcement efforts have decimated the organization, which has essentially lost whatever ability it once had to seriously threaten the United States. According to U.S. o/cials, al Qaeda's leadership has been reduced to two top lieutenants: Ayman al-Zawahiri and his second-in-command, Abu Yahya al-Libi. Panetta has even said that the defeat of al Qaeda is "within reach."The near collapse of the original al Qaeda organization is one reason why, in the decade since 9/11, the U.S. homeland has not suffered any large-scale terrorist assaults. All subsequent attempts have failed or been thwarted, owing in part to the incompetence of their perpetrators. Although there are undoubtedly still some terrorists who wish to kill Americans, their dreams will likely continue to be frustrated by their own limitations and by the intelligence and law enforcement agencies of the United States and its allies. As the threat from transnational terrorist groups dwindles, the United States also faces few risks from other states. China is the most obvious potential rival to the United States, and there is little doubt that China's rise will pose a challenge to U.S. economic interests. Moreover, there is an unresolved debate among Chinese political and military leaders about China's proper global role, and the lack of transparency from China's senior leadership about its long-term foreign policy objectives is a cause for concern. However, the present security threat to the U.S. mainland is practically nonexistent and will remain so. Even as China tries to modernize its military, its defense spending is still approximately one-ninth that of the United States. In 2012, the Pentagon will spend roughly as much on military research and development alone as China will spend on its entire military. While China clumsily flexes its muscles in the Far East by threatening to deny access to disputed maritime resources, a recent Pentagon report noted that China's military ambitions remain dominated by "regional contingencies" and that the People's Liberation Army has made little progress in developing capabilities that "extend global reach or power projection." In the coming years, China will enlarge its regional role, but this growth will only threaten U.S. interests if Washington attempts to dominate East Asia and fails to consider China's legitimate regional interests. It is true that China's neighbors sometimes fear that China will not resolve its disputes peacefully, but this has compelled Asian countries to cooperate with the United States, maintaining bilateral alliances that together form a strong security architecture and limit China's room to maneuver. The strongest arguments made by those warning of Chinese influence revolve around economic policy. The list of complaints includes a host of Chinese policies, from intellectual property theft and currency manipulation to economic espionage and domestic subsidies. Yet none of those is likely to lead to direct conflict with the United States beyond the competition inherent in international trade, which does not produce zero-sum outcomes and is constrained by dispute-resolution mechanisms, such as those of the World Trade Organization. If anything, China's export-driven economic strategy, along with its large reserves of U.S. Treasury bonds, suggests that Beijing will continue to prefer a strong United States to a weak one. Nuclear fear It is a matter of faith among many American politicians that Iran is the greatest danger now facing the country. But if that is true, then the United States can breathe easy: Iran is a weak military power. According to the International Institute for Strategic Studies, Iran's "military forces have almost no modern armor, artillery, aircraft or major combat ships, and un sanctions will likely obstruct the purchase of high-technology weapons for the foreseeable future." Tehran's stated intention to project its interests regionally through military or paramilitary forces has made Iran its own worst enemy. Iran's neighbors are choosing to balance against the Islamic Republic rather than fall in line behind its leadership. In 2006, Iran's favorability rating in Arab countries stood at nearly 80 percent; today, it is under 30 percent. Like China's neighbors in East Asia, the Gulf states have responded to Iran's belligerence by participating in an emerging regional security arrangement with the United States, which includes advanced conventional weapons sales, missile defenses, intelligence sharing, and joint military exercises, all of which have further isolated Iran. Of course, the gravest concerns about Iran focus on its nuclear activities.Those fears have led to some of the most egregiously alarmist rhetoric: at a Republican national security debate in November, Romney claimed that an Iranian nuclear weapon is "the greatest threat the world faces." But it remains unclear whether Tehran has even decided to pursue a bomb or has merely decided to develop a turnkey capability. Either way, Iran's leaders have been su/ciently warned that the United States would respond with overwhelming force to the use or transfer of nuclear weapons. Although a nuclear Iran would be troubling to the region, the United States and its allies would be able to contain Tehran and deter its aggression-and the threat to the U.S. homeland would continue to be minimal. Overblown fears of a nuclear Iran are part of a more generalized American anxiety about the continued potential of nuclear attacks. Obama's National Security Strategy claims that "the American people face no greater or more urgent danger than a terrorist attack with a nuclear weapon." According to the document, "international peace and security is threatened by proliferation that could lead to a nuclear exchange. Indeed, since the end of the Cold War, the risk of a nuclear attack has increased." If the context is a state-against-state nuclear conflict, the latter assertion is patently false. The demise of the Soviet Union ended the greatest potential for international nuclear conflict. China, with only 72 intercontinental nuclear missiles, is eminently deterrable and not a credible nuclear threat; it has no answer for the United States' second- strike capability and the more than 2,000 nuclear weapons with which the United States could strike China. In the past decade, Cheney and other one-percenters have frequently warned of the danger posed by loose nukes or uncontrolled fissile material. In fact, the threat of a nuclear device ending up in the hands of a terrorist group has diminished markedly since the early 1990s, when the Soviet Union's nuclear arsenal was dispersed across all of Russia's 11 time zones, all 15 former Soviet republics, and much of eastern Europe. Since then, cooperative U.S.-Russian eaorts have resulted in the substantial consolidation of those weapons at far fewer sites and in comprehensive security upgrades at almost all the facilities that still possess nuclear material or warheads, making the possibility of theft or diversion unlikely. Moreover, the lessons learned from securing Russia's nuclear arsenal are now being applied in other countries, under the framework of Obama's April 2010 Nuclear Security Summit, which produced a global plan to secure all nuclear materials within four years. Since then, participants in the plan, including Chile, Mexico, Ukraine, and Vietnam, have fulfilled more than 70 percent of the commitments they made at the summit. Pakistan represents another potential source of loose nukes. The United States' military strategy in Afghanistan, with its reliance on drone strikes and cross-border raids, has actually contributed to instability in Pakistan, worsened U.S. relations with Islamabad, and potentially increased the possibility of a weapon falling into the wrong hands. Indeed, Pakistani fears of a U.S. raid on its nuclear arsenal have reportedly led Islamabad to disperse its weapons to multiple sites, transporting them in unsecured civilian vehicles. But even in Pakistan, the chances of a terrorist organization procuring a nuclear weapon are infinitesimally small. The U.S. Department of Energy has provided assistance to improve the security of Pakistan's nuclear arsenal, and successive senior U.S. government o/cials have repeated what former Secretary of Defense Robert Gates said in January 2010: that the United States is "very comfortable with the security of Pakistan's nuclear weapons." A more recent bogeyman in national security debates is the threat of so-called cyberwar. Policymakers and pundits have been warning for more than a decade about an imminent "cyber-Pearl Harbor" or "cyber-9/11." In June 2011, then Deputy Defense Secretary William Lynn said that "bits and bytes can be as threatening as bullets and bombs." And in September 2011, Admiral Mike Mullen, then chairman of the Joint Chiefs of Staff, described cyberattacks as an "existential" threat that "actually can bring us to our knees." Although the potential vulnerability of private businesses and government agencies to cyberattacks has increased, the alleged threat of cyberwarfare crumbles under scrutiny. No cyberattack has resulted in the loss of a single U.S. citizen's life. Reports of "kinetic-like" cyber- attacks, such as one on an Illinois water plant and a North Korean attack on U.S. government servers, have proved baseless. Pentagon networks are attacked thousands of times a day by individuals and foreign intelligence agencies; so, too, are servers in the private sector. But the vast majority of these attacks fail wherever adequate safeguards have been put in place. Certainly, none is even vaguely comparable to Pearl Harbor or 9/11, and most can be offset by commonsense prevention and mitigation efforts. A new approach Defenders of the status quo might contend that chronic threat inflation and an overmilitarized foreign policy have not prevented the United States from preserving a high degree of safety and security and therefore are not pressing problems. Others might argue that although the world might not be dangerous now, it could quickly become so if the United States grows too sanguine about global risks and reduces its military strength. Both positions underestimate the costs and risks of the status quo and overestimate the need for the United States to rely on an aggressive military posture driven by outsized fears. Since the end of the Cold War, most improvements in U.S. security have not depended primarily on the country's massive military, nor have they resulted from the constantly expanding definition of U.S. national security interests. The United States deserves praise for promoting greater international economic interdependence and open markets and, along with a host of international and regional organizations and private actors, more limited credit for improving global public health and assisting in the development of democratic governance. But although U.S. military strength has occasionally contributed to creating a conducive environment for positive change, those improvements were achieved mostly through the work of civilian agencies and nongovernmental actors in the private and nonprofit sectors. The record of an overgrown post-Cold War U.S. military is far more mixed. Although some U.S.-led military eaorts, such as the nato intervention in the Balkans, have contributed to safer regional environments, the U.S.-led wars in Afghanistan and Iraq have weakened regional and global security, leading to hundreds of thousands of casualties and refugee crises (according to the O/ce of the un High Commissioner for Refugees, 45 percent of all refugees today are fleeing the violence provoked by those two wars). Indeed, overreactions to perceived security threats, mainly from terrorism, have done significant damage to U.S. interests and threaten to weaken the global norms and institutions that helped create and sustain the current era of peace and security. None of this is to suggest that the United States should stop playing a global role; rather, it should play a diaerent role, one that emphasizes soft power over hard power and inexpensive diplomacy and development assistance over expensive military buildups. Indeed, the most lamentable cost of unceasing threat exaggeration and a focus on military force is that the main global challenges facing the United States today are poorly resourced and given far less attention than "sexier" problems, such as war and terrorism. These include climate change, pandemic diseases, global economic instability, and transnational criminal networks-all of which could serve as catalysts to severe and direct challenges to U.S. security interests. But these concerns are less visceral than alleged threats from terrorism and rogue nuclear states.They require long-term planning and occasionally painful solutions, and they are not constantly hyped by well-financed interest groups. As a result, they are given short shrift in national security discourse and policymaking. To avoid further distorting U.S. foreign policy and to take advantage of today's relative security and stability, policymakers need to not only respond to a 99 percent world but also solidify it. They should start by strengthening the global architecture of international institutions and norms that can promote U.S. interests and ensure that other countries share the burden of maintaining global peace and security. International institutions such as the un (and its a/liated agencies, such as the International Atomic Energy Agency), regional organizations (the African Union, the Organization of American States, the European Union, and the Association of Southeast Asian Nations), and international financial institutions can formalize and reinforce norms and rules that regulate state behavior and strengthen global cooperation, provide legitimacy for U.S. diplomatic efforts, and offer access to areas of the world that the United States cannot obtain unilaterally. American leadership must be commensurate with U.S. interests and the nature of the challenges facing the country. The United States should not take the lead on every issue or assume that every problem in the world demands a U.S. response. In the majority of cases, the United States should "lead from behind"-or from the side, or slightly in the front-but rarely, if ever, by itself. That approach would win broad public support. According to the Chicago Council on Global Affairs' most recent survey of U.S. public opinion on international affairs, less than ten percent of Americans want the country to "continue to be the pre-eminent world leader in solving international problems." The American people have long embraced the idea that their country should not be the world's policeman; for just as long, politicians from both parties have expressed that sentiment as a platitude. The time has come to act on that idea. If the main challenges in a 99 percent world are transnational in nature and require more development, improved public health, and enhanced law enforcement, then it is crucial that the United States maintain a sharp set of nonmilitary national security tools. American foreign policy needs fewer people who can jump out of airplanes and more who can convene roundtable discussions and lead negotiations. But owing to cuts that began in the 1970s and accelerated significantly during its reorganization in the 1990s, the U.S. Agency for International Development (usaid) has been reduced to a hollow shell of its former self. In 1990, the agency had 3,500 permanent employees.Today, it has just over 2,000 staffers, and the vast majority of its budget is distributed via contractors and nongovernmental organizations. Meanwhile, with 30,000 employees and a $50 billion budget, the State Department's resources pale in comparison to those of the Pentagon, which has more than 1.6 million employees and a budget of more than $600 billion. More resources and attention must be devoted to all elements of nonmilitary state power-not only usaid and the State Department but also the Millennium Challenge Corporation, the National Endowment for Democracy, and a host of multilateral institutions that deal with the underlying causes of localized instability and ameliorate their effects at a relatively low cost. As U.S. General John Allen recently noted,"In many respects, usaid's efforts can do as much- over the long term-to prevent conflict as the deterrent effect of a carrier strike group or a marine expeditionary force." Allen ought to know: he commands the 100,000 U.S. troops fighting in Afghanistan. Upgrading the United States' national security toolbox will require reducing the size of its armed forces. In an era of relative peace and security, the U.S. military should not be the primary prism through which the country sees the world. As a fungible tool that can back up coercive threats, the U.S. military is certainly an important element of national power. However, it contributes very little to lasting solutions for 99 percent problems. And the Pentagon's enormous budget not only wastes precious resources; it also warps national security thinking and policymaking. Since the military controls the overwhelming share of the resources within the national security system, policymakers tend to perceive all challenges through the distorting lens of the armed forces and respond accordingly. This tendency is one reason the U.S. military is so big. But it is also a case of the tail wagging the dog: the vast size of the military is a major reason every challenge is seen as a threat. More than 60 years of U.S. diplomatic and military efforts have helped create a world that is freer and more secure. In the process, the United States has fostered a global environment that bolsters U.S. interests and generally accepts U.S. power and influence. The result is a world far less dangerous than ever before. The United States, in other words, has won. Now, it needs a national security strategy and an approach to foreign policy that reflect that reality..

## 1NC Pre-Emption

#### No coutnires will model United States declration of war, they don’t have an incentive and they already have war policy set

#### Faint chance that war will break out in the Persian Gulf

**Haaretz**, 4/12/**12**, “Iran official: Only faint chance of war breaking in the Middle East”, http://www.haaretz.com/news/middle-east/iran-official-only-faint-chance-of-war-breaking-in-the-middle-east-1.424026

There's only a faint chance of war breaking in the Middle East, a top Iranian official was quoted by the country's state-run TV station as saying on Thursday, blaming any regional instability on the presence of Western forces. The comment by Iranian Foreign Ministry spokesperson Ramin Mehmanparast came after, on Monday, the U.S. Navy indicated it deployed a second aircraft carrier to the Persian Gulf amid rising tensions with Iran over its nuclear program. A top officer at the U.S. Navy's Fifth Fleet stationed in Bahrain said that the deployment of the nuclear-powered USS Enterprise along the Abraham Lincoln carrier strike group marks only the fourth time in the past decade that the Navy has had two aircraft carriers operating at the same time in the region. The battleships will also patrol the Gulf's strategic oil routes that Iran has threatened to shut down in retaliation for economic sanctions. Referring to the chances of a military confrontation in the Middle East, Mehmanparast told Iran's Press TV, citing the ISNA news agency, that there was only a faint chance of war breaking out in the Persian Gulf and the region, adding that the "presence of foreign forces in the Middle East is the root cause of regional insecurity. They should leave our region."

**Turn – Congressional authorization leads to more pre-emption**

**Nzelibe 2006** – law professor at Northwestern (December 19, “ARE CONGRESSIONALLY AUTHORIZED WARS PERVERSE? ” http://ssrn.com/abstracts=952490 )

Contrary to the received wisdom, this experimental Article advances the empirically plausible assumption that congressional authorization of the use of force might actually have a perverse effect. Thus, rather than create a drag effect that minimizes the impulse to rush into imprudent wars, congressional authorization might actually do the opposite: because such authorization allows the President to spread the potential political costs of military failure or stalemate to other elected officials, it will lead the President to select into more high risk wars than he would otherwise choose if he were acting unilaterally. In other words, since congressional authorization acts as a political “insurance policy” that partially protects the President against the possible political fallout from a military misadventure, he is likely to be more willing to engage in wars where the expected outcome is uncertain. More importantly, not only is the President likely to use congressional authorization as a hedge to prevent future political opponents from exploiting his misfortunes, he is also likely to use it to protect members of his party in Congress who are more likely to be electorally vulnerable in the absence of such authorization. While this notion of congressional authorization as political insurance might appear puzzling, it makes sense when understood as a cheap mechanism designed to protect a vulnerable President or ruling party from the insecure political atmosphere that is likely to exist in the aftermath of a high risk conflict. Significantly, two factors operate in tandem to ensure that the initial Presidential decision to seek congressional authorization will not be particularly costly from a political perspective. First, since a member of Congress is likely to have less information than the President about the likely outcome of a high risk conflict, he or she is likely to defer to the President’s judgment that the conflict will have a positive outcome and hope to ride the President’s electoral coattails as voters rally around the flag. Thus, the purported institutional benefit of deliberation by multiple voices that congressional authorization is supposed to confer is likely to be trivial, if not non-existent. Second, since the electoral consequences of voting against a successful war are likely to be dearer than voting for a losing war, the President is relatively assured of getting a favorable vote to use force from those members of Congress who are elected from swing districts. In sum, seeking congressional authorization for the use of force becomes a tradeoff in which Presidents are willing to accept the relatively low short-term costs of involving other elected officials in the war decision-making process in exchange for long term political security.

# 2nc

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## Advantage 1

### Obama Ignores

**Congressional restrictions fail—everyone sucks**

Gene **Healy 2009** (vice president at the Cato Institute) “Reclaiming the War Power” http://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2009/9/hb111-10.pdf

 Each of these proposals has the merit of demanding that Congress carry the burden the Constitution places upon it: responsibility for the decision to go to war. The Gelb-Slaughter plan shows particular promise. Although Congress hasn’t declared war since 1942, reviving the formal declaration would make it harder for legislators to punt that decision to the president, as they did in Vietnam and Iraq. Hawks should see merit in making declarations mandatory, since a declaration commits those who voted for it to support the president and provide the resources he needs to prosecute the war successfully. Doves too should find much to applaud in the idea: forcing Congress to take a stand might concentrate the mind wonderfully and reduce the chances that we will find ourselves spending blood and treasure in conflicts that were not carefully examined at the outset. But we should be clear about the difficulties that comprehensive war powers reform entails. Each of these reforms presupposes a Congress eager to be held accountable for its decisions, a judiciary with a stomach for interbranch struggles, and a voting public that rewards political actors who fight to put the presidency in its place. Representative Jones’s Consti- tutional War Powers Resolution, which seeks to draw the judiciary into the struggle to constrain executive war making, ignores the Court’s resistance to congressional standing, as well as the 30-year history of litigation under the War Powers Resolution, a history that shows how adept the federal judiciary is at constructing rationales that allow it to avoid picking sides in battles between Congress and the president. Even if Jones’s Constitutional War Powers Resolution or Ely’s Combat Authorization Act could be passed today, and even if the courts, defying most past practice, grew bold enough to rule on whether hostilities were imminent, there would be still another difficulty; as Ely put it: ‘‘When we got down to cases and a court remanded the issue to Congress, would Congress actually be able to follow through and face the issue whether the war in question should be permitted to proceed? Admittedly, the matter is not entirely free from doubt.’’ It’s worth thinking about how best to tie Ulysses to the mast. But the problem with legislative schemes designed to force Congress to ‘‘do the right thing’’ is that Congress seems always to have one hand free. **Statutory schemes** designed to precommit legislators to particular procedures do not have a terribly promising track record. Historically, many such schemes have proved little more effective than a dieter’s note on the refrigerator. **No mere statute** can truly bind a future Congress, and in areas ranging from agricultural policy to balanced budgets, Congress has rarely hesitated to undo past agreements in the pursuit of short-term political advantage. A : 14431$CH10 11-11-08 14:18:58 Page 113 Layout: 14431 : Odd 113 C ATO H ANDBOOK FOR P OLICYMAKERS If checks on executive power are to be restored, we will need far less Red Team–Blue Team politicking—and many more legislators than we currently have who are willing to put the Constitution ahead of party loyalty. That in turn will depend on a public willing to hold legislators accountable for ducking war powers fights and ceding vast authority to the president. Congressional courage of the kind needed to reclaim the war power will not be forthcoming unless and until American citizens demand it.

### Heg ineffective

**Even there form of benign faces international criticsm and backlash – that limits its effectiveness through balancing**

**Pape 5** \***Robert Pape** is professor of political science at the University of Chicago. His current work focuses on American grand strategy, causes and solutions to suicide terrorism, the logic of soft balancing in a unipolar world, and the limits and advantages of precision air power [http://mershoncenter.osu.edu/events/09-10%20events/Sept09/papesept09.htm, International Security Summer 2005, Vol. 30, No. 1: 7–45]

The international image of the United States as a benign superpower is declining, particularly with regard to the aspects that are likely to erode its relative immunity to balance of power dynamics. Without the perception of benign intent, a unipolar leader’s intervention in regions beyond its own, especially those with substantial economic value, is likely to produce incentives among the world’s other major powers to balance against it. That the United States does not pose an imminent threat to attack any major power is not sufficient to prevent these incentives, because the main danger for second-ranked states is that the United States would pose an indirect threat or evolve from a unipolar leader into an unrestrained global hegemon. In a unipolar world, the response to an expansionist unipolar leader is likely to be global balancing.

#### There are no threats – regional actors can prevent war

**Bandow 11** – senior fellow at the Cato Institute. A former special assistant to Ronald Reagan, he is the author of Foreign Follies: America's New Global Empire (Xulon) [1-31-2011, Doug Bandow, “Solving the Debt Crisis: A Military Budget for a Republic”, January 31st, <http://www.cato.org/pub_display.php?pub_id=12746>]

More than two decades after the Cold War dramatically ended, the U.S. maintains a Cold War military. America has a couple score allies, dozens of security commitments, hundreds of overseas bases, and hundreds of thousands of troops overseas. Yet international hegemonic communism has disappeared, the Soviet Union has collapsed, Maoist China has been transformed, and pro-communist Third World dictatorships have been discarded in history's dustbin.

The European Union has a larger economy and population than America does. Japan spent decades with the world's second largest economy. South Korea has 40 times the GDP and twice the population of North Korea. As Colin Powell exclaimed in 1991, "I'm running out of demons. I'm running out of enemies. I'm down to Castro and Kim Il-sung."

Yet America accounts for roughly half of the globe's military outlays. In real terms the U.S. government spends more on the military today than at any time during the Cold War, Korean War, or Vietnam War. It is difficult for even a paranoid to concoct a traditional threat to the American homeland.

Terrorism is no replacement for the threat of nuclear holocaust. Commentator Philip Klein worries about "gutting" the military and argued that military cuts at the end of the Cold War "came back to haunt us when Sept. 11 happened." Yet the reductions, which still left America by far the world's most dominant power, neither allowed the attacks nor prevented Washington from responding with two wars.

And responding with two wars turned out to be a catastrophic mistake. Evil terrorism is a threat, but existential threat it is not. Moreover, the best response is not invasions and occupations — as the U.S. has learned at high cost in both Afghanistan and Iraq. Rather, the most effective tools are improved intelligence, Special Forces, international cooperation, and restrained intervention.

Attempts at nation-building are perhaps even more misguided than subsidizing wealthy industrialized states. America's record isn't pretty. The U.S. wasn't able to anoint its preferred Somali warlord as leader of that fractured nation. Washington's allies in the still unofficial and unstable nation of Kosovo committed grievous crimes against Serb, Roma, and other minorities. Haiti remains a failed state after constant U.S. intervention. The invasion of Iraq unleashed mass violence, destroyed the indigenous Christian community, and empowered Iran; despite elections, a liberal society remains unlikely. After nine years most Afghans dislike and distrust the corrupt government created by the U.S. and sustained only by allied arms.

The last resort of those who want America to do everything everywhere is to claim that the world will collapse into various circles of fiery hell without a ubiquitous and vast U.S. military presence. Yet there is no reason to believe that scores of wars are waiting to break out. And America's prosperous and populous allies are capable of promoting peace and stability in their own regions.

**Extend 1nc zenko and cohen –**

**Power diffusion solves their impacts**

**Kupchan 12** \*Charles Kupchan is a professor of International Affairs at Georgetown University and senior fellow at the Council on Foreign Relations [No One's World: The West, the Rising Rest, and the Coming Global Turn, book]

Enhancing the efficacy of international institutions will also require the devolution of greater responsibility and capability to regional actors. Deliberations at the global level are certainly required to set broad policies as well as coordinate responses to crises. But global governance has its limits; as the UN and G-20 have made clear, reaching consensus and taking effective action do not come easily. The diffusion of global power ultimately means the diffusion of international responsibility—from the Atlantic community of democracies to a broad array of states in good standing in all quarters of the globe. A new distribution of power necessitates a new distribution of responsibility, and effectively tackling many of today's challenges requires broad cooperation across region and regime type. Proposals that envisage the world-wide extension of Western institutions—such as a global NATO or a League of Democracies—are destined to fall woefully short. Important rising powers would be excluded and Western democracies have little appetite for such an expansion of commitments. Instead, Western institutions should serve as a model, not a substitute, for regional governance elsewhere. In the same way that NATO and the European Union helped bring security and prosperity to the Atlantic community, similar institutions can do the same in other areas. Regional devolution makes sense for a number of reasons. Countries closest to a crisis are those most likely to take effective action, if only for reasons of proximity. And with the West likely to be more focused on its own problems in the coming years, tapping the potential of other states increases the likelihood of timely diplomatic and military initiatives. Finally, the West's intervention beyond the Atlantic zone always invites resistance and resentment. In contrast, action by local states is more likely to enjoy support and legitimacy within the region in question. The devolution of authority to regional bodies has already been occurring, aided by the evolving capacities for governance and engagement at the regional level. The Association of Southeast Asian States (ASEAN), the Gulf Cooperation Council (GCC), the African Union (AU), the Economic Community of West African States (ECOWAS), the defense union taking shape in South America (UNASUR)—as these and other regional organizations mature, they have considerable potential to assume greater responsibility for their respective regions.

#### Peace is not because of the U.S. – only logical explanation is states want peace – the fact there is peace without hegemony proves other factors outweigh – empirics only prove our claim

-Theoretically if other people wanted war – us couldn’t stop them, thus people just don’t want war

-There is peace where the u.s. isn’t which means there is obvi something else at play

-Even when hegemony decreased, war still decreased which means that they’re not related

**Fettweis 10** – Professor of national security affairs @ U.S. Naval War College (Chris, Georgetown University Press, “Dangerous times?: the international politics of great power peace” Google Books)

Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that a generally in the interests of all countries to follow. Without a benevolent hegemony, some strategists fear, instability may break out around the globe. Unchecked conflicts could cause humanitarian disaster and, in today’s interconnected world economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would “become a more dangerous place” and, sooner or later, that would “rebound to America’s detriment.” If the massive spending that the United States engages in actually produces stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, the belief that U.S. hegemony is not the primary cause of the current era of stability. First of all, the hegemonic stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can be stability in the community of great powers is if self-policing occurs, ifs **states have decided that their interest are served by peace**. If no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would be wasted. The 5 percent of the world’s population that live in the United States simple could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States may be patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to be the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to be especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influence those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. 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. To internationalists, defense hawks, and other 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 Americas responsibilities to itself and to world peace."" If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, 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 Pentagon, 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 mistrust and arms races; 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 ofinternational war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

## SpecOps

### A/T: Cuts

Strong now increasing that’s Johnson

Conducting now that’s maher

#### No special forces cuts

Andrei **Akulov 13**, journalist, “Special Operations Forces,” Before It’s News, 10-21-13, http://beforeitsnews.com/international/2013/10/special-operations-forces-2470642.html

The Special Operations Command (SOCOM) is scheduled for more spending and personnel increases while the rest of the military looks to be making cuts subject to sequester that SOF are exempt from as an elite component. The end strength has grown to almost 70,000 to add countless private support personnel to it. The number of commandos has doubled since 9/11, and their budget tripled — from $3.5 billion to $10.5 billion. The trend will likely continue. Special forces operations have become commonplace during the height of the wars in Afghanistan and Iraq. It’s not short targeted combat raids only – over the last decade the forces have been more frequently assigned long-term missions meant to train and build local security forces around the world – acting as an important foreign policy tool.

### 2NC Overview

#### Special ops are key to find nukes in an inevitable china war – they also locate anti-ship cruise missiles

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A critical question for US defense strategists is: how will China exploit its growing economic strength and military power? Opinions in the national security community vary widely on this question and, in particular, on whether conflict with China is inevitable.81 China claims that it will rise peacefully; if that is the case, it will be in the national interest of United States to develop closer ties with China.82 It is certainly plausible, however, that future US-Sino relations may be characterized more by competition and periodic conflict than sustained cooperation.83 To hedge against that possibility, however remote, the US military will need to be shaped, sized, and postured differently than it is today.84 If done wisely, these steps could dissuade China from investing in capabilities that threaten US and allied interests in East Asia, improve crisis stability in the region, and deter future Chinese aggression. In the event that these US efforts fail, however, there are at least four missions that SOF may be called upon to perform as part of a broader conventional campaign: > Large-scale unconventional warfare operations on China’s periphery to open up additional fronts. > Information operations focused on accessing “closed” communications and computer networks. > Clandestine special reconnaissance missions to locate hidden or mobile high-value targets for precision attack. > Direct action against key targets that cannot be disabled by other. Unconventional Warfare Operations While Han Chinese comprise just under 92 percent of the PRC’s population, the remaining eight-plus percent includes groups of Zhuang, Uyghur, Hui, Yi, Tibetan, Miao, Manchu, Mongol, Buyi, and Korean extraction.85 Several of these groups, the Uyghurs and Tibetans in particular, consider themselves to be oppressed by the current regime and demand varying measures of increased autonomy. For example, the Uyghurs, who live primarily in China’s northwestern Xinjiang region, ultimately seek to establish a new republic of East Turkistan. In the unlikely and undesirable event of a large-scale conventional war with China, SOF could be called upon to help organize, train, and equip insurgents from these disaffected communities in order to open up additional fronts and potentially tie down a substantial number of People’s Liberation Army forces in manpower-intensive, 83 counter-insurgency operations.86 This unconventional warfare mission would fall primarily to SF battalions and AFSOC, which is responsible for operating the specialized aircraft needed to infiltrate, support, and exfiltrate SF teams into “denied” areas. The obvious implication of this prospective mission for SF is the need to develop proficiency in relevant languages (e.g. Mandarin Chinese and other dialects, Altaic, Mongol, and Tibetan) and cultures. For AFSOC, this mission highlights the growing need for a stealthy, long-range SOF insertion aircraft that can penetrate undetected into and survive within heavily defended airspace. There is simply no way that an MC-130 derivative aircraft could operate at an acceptable level of risk in most of China’s border areas today — and, as will be detailed in Chapter 3, this capability shortfall is almost certain to intensify over time. Accessing “Closed” Networks China has developed an extremely robust internal fiber-optic network for military command, control, and communications. In all likelihood, it has several dedicated, stand-alone communications and computer networks that are not connected to commercial networks, and are thus practically impossible to access remotely. Accordingly, SOF may be called upon to gain physical access to these networks — both in peacetime for intelligence-collection purposes and in wartime to spoof, exploit, or disable them. During peacetime, this mission would probably be assigned to the Central Intelligence Agency. However, in remote, difficult-to-access land areas, or for cables on the seabed, SOF could play an important role. During wartime, the network-access mission could become a core responsibility for SOF. This mission has several important implications for SOF. First, SOF need to master the skills necessary to tap into fiber-optic or other communication lines, as well as to hack into protected computer networks. This will require the creation of new information operations training programs, as well as the development and procurement of specialized network-access “tool kits.” It could even provide the impetus for the reshaping of SF ODAs and SEAL Teams — expanding or reconfiguring them to include one or more information-operation specialists. Second, it highlights once again the requirement for a stealthy SOF insertion and exfiltration aircraft. Third, the potential scale of the wartime mission suggests that WARCOM’s current fleet of one, semi-operational Advanced SEAL Delivery System mini-submarine is wholly inadequate. Although flooded SEAL Delivery Vehicles could also be used to transport SEALs clandestinely from submerged submarines to fiber optic cables in China’s littoral waters, they would be far less desirable operationally. SEALs that could come and go repeatedly from the warm and dry environment of the pressurized Advanced SEAL Delivery System using its rapid lock-in/lock-out chamber would be much better able to perform the technically challenging and time-consuming task of clandestinely tapping into fiber-optic cables on the cold sea floor. Clandestine Special Reconnaissance and Direct Action Missions In the event of a military conflict with China, SOF would likely support conventional operations by finding and, in a more limited set of cases, attacking high-value targets. They might be relied upon, for example, to locate cruise and ballistic missile launcher “hide sites,” including in deep inland areas, as well as coastal anti-ship cruise missile and surface-to-air missile launchers. To avoid revealing their location, hidden SOF units would either provide the GPS coordinates of confirmed targets using low-probability of detection communication systems or laser-designate them for precision air and missile strikes launched from orbiting aircraft and offshore ships. In rare circumstances, however, SOF might be called upon to conduct direct action missions against targets of high strategic or operational importance that cannot be reliably or safely neutralized by other means. Examples of the former could be a deep-underground command and control node or a super-hardened submarine pen; examples of the latter might be a WMD storage site or a critical target located in a densely populated area. JSOC’s SMUs might also be tasked with conducting “snatch and grab” operations such as rescuing and extracting imprisoned political opposition leaders. These are all “bread and butter” SOF tasks. During Operations Enduring Freedom and Iraqi Freedom, for example, SOF routinely performed similar special reconnaissance and direct-action missions. The major difference, of course, is the extremely high-end threat environment in China. The implications for SOF echo those already mentioned — the requirement for the development and fielding of a fleet of stealthy SOF transports to replace the aging and vulnerable MC-130 Combat Talons, and the need to field a larger Advanced SEAL Delivery System fleet.

#### Conflict over Taiwan escalates

**Hunkovic,** American Military University, **09** [Lee J, 2009, “The Chinese-Taiwanese Conflict

Possible Futures of a Confrontation between China, Taiwan and the United States of America”, <http://www.lamp-method.org/eCommons/Hunkovic.pdf>]

A war between China, Taiwan and the United States has the potential to escalate into a nuclear conflict and a third world war, therefore, many countries other than the primary actors could be affected by such a conflict, including Japan, both Koreas, Russia, Australia, India and Great Britain, if they were drawn into the war, as well as all other countries in the world that participate in the global economy, in which the United States and China are the two most dominant members. If China were able to successfully annex Taiwan, the possibility exists that they could then plan to attack Japan and begin a policy of aggressive expansionism in East and Southeast Asia, as well as the Pacific and even into India, which could in turn create an international standoff and deployment of military forces to contain the threat. In any case, if China and the United States engage in a full-scale conflict, there are few countries in the world that will not be economically and/or militarily affected by it. However, China, Taiwan and United States are the primary actors in this scenario, whose actions will determine its eventual outcome, therefore, other countries will not be considered in this study.

## Preemption Advantage

### No Modeling

**We can concede that Israel models because they are an ally, but the above proves not other countries**

**Their Israel scenario is a**

**Double turn -**

Kwartin, **Ilana**; Michael, Kobi, Department of political science, Ariel University, Ariel, Israel, and Law School, Sapir Academic College, Sderot, Israel, “Declaration of War - Between a Ceremony and a Strategy: The Case of Israel and Hamas in the Gaza Strip”, Journal of Politics and Law6.3 (Sep 2013): 198-208., Sept 20**13**,

3. Declaration of War In the past, **a declaration of war was considered an act of law** that was a prerequisite to starting a war. The significance of the declaration was the abolition and end of any diplomatic and commercial relations between the two countries in question, and the annulment of any treaties between them. In today's world, the implications of a declaration of war (should it be issued) are less dramatic. In effect, since World War II formal declarations of war have become extremely rare (Elsea & Grimmett, 2007). **There are widespread, acknowledged and established war laws within normative frameworks, which are widely recognized at both legal and practical levels by most countries of the world** (Biton, 2006-2007). Such laws were formulated to arrange the obligations, rights, and privileges of parties to armed conflicts and apply both to the parties to the conflict and to relations between those parties and neutral parties. As such, the laws apply to both state and non-state organizations and are also binding on states and organizations that are not signatories to them. As a general mle, **international law imposes restrictions on the rights of nations to employ military force in their relations with other nations**. Chapter I, Article 2(4), the Charter of the United Nations (1945) prohibits the use of force. It says members "shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations" (Seibel, 2003). The prohibition against the use of force as a rule of conduct is also binding on non-UN member nations. The only two exceptions to the prohibition on the use of force are a Security Council resolution permitting the use of force or warfare for individual or collective self-defense. ***A belief prevails*** among researchers and jurists today ***that nations have waived their right to resolve conflicts by means of a declaration of war* because of treaties to which they are party**. (Note 3) Whether the entry into the arena of terror organizations and other non-state actors overturns that waiver and reinstates the right of nations to make formal declarations of war, as in the past, has yet to be addressed (Elsea & Grimmett, 2007: 28). It is our belief that a declaration of war is also a ceremony, which as such has the innate and significant power to influence every group of people, whether defined as nation, organization, non-state entity, population or any other body. (Note 4) 4. Declaration of War as a Ceremony - an Anthropological View When speaking of a declaration of war, Austin (1963, 2006) explains it as a "speech act", a declaratory performative sentence. Kenny (2010) argues that a declaration is a political act performed in public "as part of the regulation of power relations" (Kenny, 2010: 29). The very fact of **making a declaration creates a new scenario even before any specific action occurs**; thus the actual moment of declaration constitutes both a beginning and an end simultaneously, and has the power to bring about a transformation in the existing status. Austin (1963) suggests acknowledging the power of words by paying special attention to the language and relevant contexts in which the words are spoken. For our purposes, Kenny (2010) explains that it is political activity, such as a declaration of war that shapes the legal dialogue addressing it, and not the other way around. Hence, even if a declaration of war is an anachronism and perhaps even unacceptable in strictly legal terms today, that does not detract from its optional impact at the political and transformative level. Since a formal declaration of war is determined in law and is deeply embedded in the world's tradition, it is perceived as a cross cultural act and applicable to different forms of government. As such it has retained its original ritual format. The ceremony of declaring war is recognized as representing a clear-cut division between two statuses - peace and war. Thus a ceremony is a social phenomenon with symbolic meaning performed according to ritual mies which are clear, known, rigid, strict and common to all human society. It bears an important new message of change of status (Van Gennep, in: Turner, 2004: 87) and is in fact a rite of passage "accompanying any change of a collective nature from one state to another" (Turner, 2004: 147). It also emphasizes the lasting impact of the ceremony as a political tool for change or substitution (Ibid: 152). Handelman (1990) underlines the importance of ceremonies as significant phenomena accompanied by symbols that are relevant to a particular group of people, whose performance may result in a major or minor transformation: "The result of ritual action is ... the small- or large-scale transformation of both the actor and the audience" (Trexler, in: Handelman, 1990: 11). Handelman, more than others, stresses ritual as a tool with the ability to produce change on a cosmological level, to generate a transformation in the world, in addition to change in the actors themselves. He explains that the format of the ceremony shapes the ritual experience and creates the meaning bestowed on it. Ceremonies have their own fixed order and predetermined accompanying documents. Their intention is to create a certain conscious and emotional situation, a social obligation and legitimization of the action and thus are undertaken in public, so as to broadcast the message and its meaning to the public and the world at large (Handelman, 1990). 5. Conflict Resolution, Protracted Conflicts and Conflict Transformation The period after the end of World War II saw the dawning of the field of Conflict Resolution (CR), with 1957 marking its formal establishment. Conflict Resolution views conflicts as an inherent phenomenon to the human experience. Recognized theories in the field seek to discover the generic organizing principles of conflicts. (Note 5) 5.1 The Conflict Transformation Approach Beyond the principal tenets of CR, a new approach, Conflict Transformation (CT), has arisen more recently. CT maintains that in cases of protracted and intractable conflicts, the objective should be to create a transformation of those conflicts (Botes, 2003). The theory of Conflict Transformation (Lederach, 2003) is perceived as an alternative to the traditional paradigms of Conflict Resolution, (Note 6) and for many researchers it represents a new development in the field (Ramsbotham, Woodhouse & Miall, 2005(3), 22) and more comprehensive than other approaches (Botes, 2003). According to the theory of Conflict Transformation, in any given situation, psychological and other blocks prevent the resolution of a conflict. Hence it must be converted into a different kind of conflict, involving a transformation both of the conflict itself and of the socio-political system within which it exists (Botes, 2003). Since interpersonal relationships are at the heart of conflicts, intensifying them can actually result in their resolution via a change in some essential structure (Lederach, 2003). As we discuss in further sections of this article, declaration of war is a tool used to intensify the level of violence, creating structural transformation. According to this approach, the desired transformation is one that creates "a turnaround in the dynamics of conflicting interactions" (Kriesberg, 2008: 407). The model of the approach is a spiral shape expressing circularity together with linearity, thus effectively emphasizing the complexity of the conflict process, whose progress is not exclusively linear. This approach aspires to help not only in the resolution or management of conflicts, but also by offering "[T]he ability to transform the dynamics of the conflict and the relationship between the parties - indeed to transform the very creators of the conflict" (Botes, 2003). As we later elaborate in this article, declaration of war changes the dynamics of the conflict and the relationships between the parties. It Shifts the mies of the game - from a sporadic front everywhere a population exists, to an organized and defined battle field. Väyrynen identifies a series of transformations that are vital components of conflicts, in the absence of which the conflict may be diverted towards protracted violence and war (Väyrynen, in: Botes, 2003; Väyrynen, in: Ramsbotham, Woodhouse & Miall, 2005(3), 205). Among the transformations he proposes are: Context Transformation: Since conflicts are rooted in social, regional and international contexts that contribute to their persistence, a change is first needed in the context itself before any change is possible in the relationships between the parties. Structural Transformation: The structure of conflicts consists of the actors, the contradictory objectives of the parties and the relationships between the latter. If the conflict is based on the structure of the relationships between the parties, then a structural transformation (in the socio-political sense, as well as the structure and strength of the parties involved) will contribute to resolving the conflict. In asymmetrical conflicts, for instance, a structural transformation means bringing about a change in the relations between the state and the non-state actors. 5.2 Protracted Conflict Azar (1985) points out that present-day conflicts are essentially generated by social causes and are characterized by extensive violence and open hostility. He coined the term "Protracted Social Conflict" (PSC) in reference to the Israeli-Arab conflict in the Middle East. He describes protracted conflicts as comprising a mixture of ethnic and inter-State elements and "hostile interactions which extend over long periods of time with sporadic outbreaks of open warfare fluctuating in frequency and intensity". The entire society is involved in a protracted conflict, creating a national identity and solidarity. Despite periods of peace, no clear end to the conflict can be pinpointed, and a process leading to a conclusion can only be seen retrospectively (Azar, 1978). Further, Rouhana and Bar-Tal (1998) denoted the term coined by Connor (1994): "Ethno-National Conflict", and defined the predominant characteristics of protracted intractable conflicts, i.e. continuous, total, central, violent and irresolvable. The weight and force of such characteristics varies from one conflict to another, but all of these qualities must exist in order to meet this definition. (Note 7) 5.3 The Local Conflict as Protracted Conflict The local conflict is considered a protracted conflict since it fulfills all the above-mentioned features, including the presence of a psychological infrastructure. From a regional analysis (Levy, 2001), the conflict between the parties can be defined as an interlocking conflict (Kriesberg, 1980), inasmuch as it is interlocked with other conflicts and influenced by the reinstatement of the concept of a "nation state." This makes and will continue to make it more difficult to settle and resolve the conflict, and ensures that it will be even more protracted and intractable. An Asymmetrical Conflict, usually occurring between state entities and organized armies on the one side, and on the other non-state actors, in the guise of terror and guerilla organizations (Michael, 2009), falls by definition into the category of such protracted conflicts and is their ultimate manifestation. Today more and more conflicts erupt between minority groups and hegemonies, between states and quasi-state entities or between states and terror organizations (various kinds of protracted wars) (Shai, 2006), with asymmetry as a prominent feature. For the most part it is the "weak" party which initiates the conflict, and in some cases employs a strategy of attrition, (Note 8) via terrorist and guerilla means, aimed at reaching a conscious resolution for the "strong" (state) party, with the understanding that a physical resolution is unattainable (Shay, 2006). These organizations rely on the population for support and legitimization, as well as cover. "Low intensity conflict" is a military phenomenon referring to hostilities between a state entity and non-state. It is typified by "erosion" (Note 9) and a lack of resolution, and because it continues over the long term it wears the parties down socially and economically. Another term used in military jargon to describe "low intensity conflict" is "limited conflict." (Note 10) The primary characteristics of low intensity conflict are: zero-sum game; typically asymmetrical; protracted, long-term conflict with no chance of decisive military resolution; collective punishment by the state entity; blurring the distinction between the military front and the home front; cynical use by the weaker party of psychological warfare and the media; and the absence of a clear time for the conclusion and resolution of the conflict. (Note 11) 6. The Conflict between Israel and Hamas in Gaza Hamas (an acronym for Harakat al-Muqäwamah al-'Islamiyyah or Islamic Resistance Movement) was founded in 1987 as a socio-religious-political and military movement of fundamentalist Sunni Palestinians. Its activities are almost entirely concentrated in the Gaza Strip (Schiff and Yaari, 1990). The movement's members oppose the existence of the State of Israel, believe that all territory under Israeli sovereignty belongs to the Muslim Waqf, and believe it is the duty of every Muslim to restore it to the Palestinians. The movement's objective is the establishment of a formal Palestinian state where the State of Israel currently stands. **The relationship between Israel and Hamas has been through many crises**. (Note 12) Their relationship corresponds to the characteristics of conflicts described above: it is protracted and intractable; it overlaps and interlocks with other conflicts; and it exists simultaneously on a number of levels. Furthermore, the conflict between the two parties exists within the Normal Relations Range (NRR) coined by Edward Azar; Any deviation towards escalation - in our case, a declaration of war - could result in region-wide danger, affect the interests of actors in the international arena (Egypt and Turkey directly, Iran indirectly), and hence give rise to international intervention in such a way as to suppress or reduce the level of violence and cause it to return to the "normal" range. At the same time, a trend towards increasing appeasement, extending beyond the lower threshold of the NRR towards cooperation, would create domestic pressure to renew and escalate violence and revert to the "normal" relations range. Over time **there has been a sharp rise in the level and extent of violence in the conflict**, which reinforces the military standing of Hamas but brings the conflict no closer to resolution. We believe that **transforming the conflict by means of the ceremony of** ***a declaration of war***, **has the power to change the existing structure of power thereby creating the necessary conditions for resolving the conflict.** 7. Discussion: The Contribution of a Declaration of War to the Transformation of the Conflict This section examines the effect of a declaration of war on the conflict between Israel and Hamas in Gaza. The first part discusses the advantages and disadvantages of a declaration of war (7.1 and 7.2); the second describes the types of transformation to which a declaration of war can cause (8); the third presents fomenters and mollifiers of a declaration of war (9). This will allow for a more balanced examination of the strategic considerations facing Israel in the difficult political and strategic decision-making process vis-à-vis the conflict with Hamas. 7.1 The Advantages of a Declaration of War **A formal declaration of war unambiguously assigns responsibility to the authorities concerned**. It also serves to inform the entire nation that civilian life is about to change and that the population will have to make many sacrifices. Another important advantage is that **such declaration grants the authorities political and moral legitimization to initiate a war on behalf of the nation and to direct military forces as it deems fit**. Finally, the declaration through a public binding legal procedure might even prevent the advent of other unnecessary wars (Sidak, 1991), as was hoped by the creators of the declaration of war in the last century. Furthermore, **the declaration of war communicates a very real threat, both for the opposing party and for the declaring nation itself, that the nation is ready and willing to use all its power, allocate all necessary resources to the war effort, and adjust its priorities accordingly** (Sidak, 1191: 41). **Thus, it represents a shift in position and beliefs and is the direct result of a learning process** (LeVine) **as well as an expression of the "ripeness"** (Zartman, 1985) **of the leadership**. One example is President Bush's declaration of war on terror in 2001, which delineated the interests of the United States and specified the measures that would be undertaken to defend them. Beyond authenticity, a declaration of war announces that this is not the private action of any single individual or marginal group, but one backed by the entire nation, united in its support and authorizing its representatives to declare war. Hence a declaration of war is a "collective act", a fact conveying power and advantage. A declaration of war can, of course, result in actual warfare. Among the advantages of this possibility are: 7.1.1 The Arena Is Moved From the Heart of the Population to a Defined Front **Currently the greatest challenge facing the IDF,** different from other Western armies, **is that the war is conducted against an enemy that deliberately sacrifices its own people** and tries to lure Israel into killing innocent civilians (Kemp, 2009). **By its very definition**, ***a declaration of war*** **can help transfer that arena to its natural location,** viz. **the battlefield**, or can create such an arena. 7.1.2 Cessation of the Conflict's Protracted Nature and Erosion **Endless conflict and long-term exhaustion exposes Israel's relative disadvantage vis-à-vis the enemy**, which is a terror organization. **In order for Israel to maximize its advantages, it must create a situation where warfare is concentrated on a single defined front,** achieve decisive and conclusive military resolution on that front, and only then move on to the next one. Any other situation will dilute Israel's forces and result in civilian and political erosion and eventually failure. Moreover, **Israel is unable to withstand a war of attrition precisely because it is a democracy**. The population's trust in the State to provide all its needs in terms of resources and welfare ("trust and coherency in the government-army-civilian triangle" (Tira, 2008: 68)), will be to its detriment in the event that the low intensity conflict lasts long enough to damage the Israeli economy and civilian morale. A declaration of war will help break the paradox of asymmetry to Israel's benefit. It is well known that most IDF units were designed for high intensity warfare and trained accordingly even though since 1982 they have actually been more engaged in a war on terror and guerilla warfare (Zalmanovitch, 2006). Therefore, ***paradoxically, a switch to high intensity warfare following a declaration of war would transform the asymmetry in Israel's favor*** (Weiner, 2006). 7.1.3 Legitimization for a War on Terror, and in Particular the Use of Military Force The prohibitions on the use of force or limitations on proportionality laid down in international law apply for the most part to situations that are defined as conflicts, rather than to war. Subject to such limitations, a nation that finds itself at war may do anything in its power to defend itself. The realm for military action and possibilities for maneuvers increase, since Israel would be in a situation where the use of force is expected, permitted, and necessary. If the enemy is unable to win a war, but for many years has engaged in a low intensity conflict, a declaration of war will transform disadvantage to advantage: Armed opposition groups are not able to win a direct confrontation with regular armed forces because they lack firepower, but they can win small local engagements, keep large numbers of regular forces tied up and, perhaps, prevent control by the armed forces of the whole territory (Rogers, 2004). 7.1.4 A Superior Collaboration between the Political and Military Echelons and Creation of a Dialogue between the Two **A declaration of war will force the political echelon to clarify its political directive and encourage dialogue regarding the nature of the war to be conducted, the type of resolution desired, the political objective from which the military operation is derived, and ways to achieve that objective, i.e. "the relationship between Ends and Means" (JOE, 2010). A declaration of war forces dialogue and coordination (by virtue of the law), not required in a targeted response or sporadic operations.** 7.1.5 Determining the Rules of the Game War, by nature, is a scenario in which each party defines its objectives differently and views the ultimate outcome differently. If Hamas has thus far laid down the rules, a declaration of war would enable Israel to regain control and have the upper hand by means of advantageous characteristics (superior military capability). "A party that enforces the nature of the war it is suited for, can act effectively to implement its goals, whereas the other party will be less relevant from the outset" (Tira, 2008: 68). 7.1.6 Subordinating the Struggle between the Parties to War Laws Hamas is aware that Israel and other Western armies operate according to international law. Accordingly, Hamas, which does not adhere to the international mies of war, does everything it can to exploit the limitations which its enemy imposes on itself. It works on the basic assumption that Western armies will act largely according to the laws of war and for this reason adopts an intentional policy of acting outside of those laws. In fact this forms the basis of its operational doctrine (Kemp, 2009). 7.2 The Disadvantages of a Declaration of War (1) Apart from the irrelevance of a declaration of war in the present era, there is no overall agreement about the desirability of using it today or at all. Moreover, a declaration of war could lead to an internal rift or to widespread panic, and not necessarily to a closing of ranks or an outburst of patriotism among the Israeli public. (2) A declaration of war could be construed as tantamount to granting legitimization to a movement which is defined and known as a terror organization. (3) ft can even be argued that an act which is not used, and was abandoned during the century in which it was created and legislated, becomes as irrelevant on the political front as on the legal front. Furthermore, at least for the global community, a major disadvantage of a declaration of war is that it opens up a front that could lead to Israel's de-legitimization and hurt the country's interests with Egypt, Iran and the USA. (4) Since war is designed to serve policy and complement diplomacy, there should first be an examination of whether any coherent policy is in place regarding the Gaza Strip. Such an examination shows that Israel has not yet resolved its basic dilemma about Gaza. On the one hand Israel needs to assure military control in the territories bordering Israel to prevent high-trajectory missiles from being fired into Israel. On the other hand continued control perpetuates accusations from the opposing side, including Hamas, that Israel is an occupying and oppressive power. In that case, occupation of the territories where the firing originates could play into the hands of the enemy (Shay, 2010). Under the circumstances it is in Israel's interest to have a Hamas government which is effective and responsible towards the Palestinian population in Gaza, but militarily weakened and deterred with regard to Israel. (5) Although one of the main contributions of a declaration of war is to express the determination and decisiveness of the political ranks, in a place with no history of declarations of war, determination or persistence, or coherent policy on the part of political ranks, a declaration of war could actually deliver a message of lack of reliability, and be more damaging than beneficial to Israel. 8. The Transformations Created by a Ceremony of Declaration of War in the Conflict between Israel and Hamas in Gaza **Declaration of war** as we propose to understand it in this article **is used for neutralizing the violent dimension of the conflict which via its constant and persistent presence overshadows the ability to cope with all other aspects of the conflict, therefore leaving no room for using the diplomatic channels for settling the conflict**. As described above, **declaration of war is a speech act and therefore has a transformative potential to generate a new status between the parties**. Hence, our primary claim in this article is that ***declaration of war has the power to create a substantial transformation in the conflict between Israel and Hamas*** (Botes, 2003; Kriesberg, 2008) so long as it is reconstructed in its new anthropological meaning. As mentioned above, Väyrynen (Väyrynen, in: Botes, 2003; Väyrynen, in: Romsbotham, Woodhouse & Miall, 2005(3), 205) denoted several types of possible transformations. We propose to examine them in the context of the conflict with Hamas as follows: 8.1 Structural Transformation The transformation accurse in the relationships between the parties. The conflict between Israel and Hamas cam demonstrate three ways of such transformation: 8.1.1 Declaration of War as Recognition of Hamas as a State In this case, **when Israel performs a declaration of war**, ***it transforms the relations between the parties from state/non-state relations to state/state relations***. **As a result, Hamas may have to submit to war laws or other international norms**. Although it may seem contradictory to one's initial intuition, we maintain that "upgrading" the enemy's status, will break the asymmetrical dimension of the conflict while paradoxically allowing Israel to express its military advantage to resolve the conflict. Although it is unclear whether it can be done legally, at least in the perceptional sense, ***it is possible to "declare" Hamas as a state through declaration of war.*** In other words, a pro-active strategy (declaration of war) will create a change within Hamas, forcing change in the attitude and behavior of Hamas and allowing for management of the conflict. This way, declaration of war is a "generator" for learning processes and ripeness (Zartman, 1985) of the leadership of Hamas and an important part on the lead towards resolution. 8.1.2 Declaration of War as Recognition of Hamas as a Belligerent **Declaration of war serves here as recognition of the legitimacy of Hamas by marking them as equal belligerent in this conflict, since one declares war on an entity that is equal to it.** Being that declaration of war is a complex phenomena, such transformation can be viewed as both an advantage and disadvantage for Israel's strategic interests: alongside the advantage of breaking the asymmetry, it also gives legitimacy to the other party by labeling its military arm as a proper state army in a conflictual situation. This demonstrates the dialectical aspect of declaration of war. 8.1.3 Structural Transformation through a Change in Israel's Policy towards Hamas Through complex learning (Levy, 1994) the leadership will change its foreign policy. A declaration of war will clarify how the leadership sees the conflict - are they fighting criminals or soldiers? Declaration of war will label the conflict as "military" with no room for ambiguity. 8.2 Actor Transformation The Israeli leadership adopts new goals and objectives since a declaration of war forces them to define clear and decisive policy to support the need for warfare. Although a declaration of war was neglected as a formal step prior to opening hostilities, the need to define clear objectives still exists. In this sense, it is not the declaration itself that transforms the conflict towards resolution, but the fact that the political echelon is forced to define objectives for policy making as well as for military action. We maintain that this transformation will also shift the conflict from low intensity to high intensity - war. The need for Israeli leadership to develop objectives may help creating a strategy towards defeating Hamas. 8.3 Declaration of War Serves as a Message of Credibility and Decisiveness In other words, a declaration of war is a clear declaration of intentions. Since we view a declaration as a ceremony, it accompanies a collective undergoing a major change (Temer, 2004). This aspect is not drawn directly from the Conflict Transformation approach but in our view is defined as crucial for creating a combination between a cognitive process (learning) and a behavioral one (ripeness) when the Israeli leadership undergoes a learning process that leads to a change in its attitude, policy and strategy. Harkabi suggests that "the shift towards war is an event, an actual action and not only a behavior, and such action depends on one decisive decision" (Harkabi, 1990, 318). Such an "event" is the ceremony of declaration of war which leads to a Structural Transformation (Väyrynen, in: Botes, 2003; Väyrynen, in: Romsbotham, Woodhouse & Miall, 2005(3), 205). Analysis of those types of transformations challenges the traditional conception of a dichotomy between diplomacy and war, where declaration of war was firmly a strategic move and not a diplomatic one. Through our new conceptualization, we place a declaration of war as a tool for policy, which marks declaration of war as diplomatic in nature having the potential to contribute greatly to the settlement of the conflict with Hamas with no actual warfare included. This approach is exemplified in the transformation of the conflict from state/non-state to state/state relations, and in the transformation of Hamas to an equal belligerent. In this sense, a declaration of war can be viewed as an extension of the diplomacy, with "strategy" only beginning when (and if) warfare commences. Placing a declaration of war in this new framework - policy making - gives it a new interpretation and allows for understanding its proper contribution to conflict resolution. 9. Fomenters and Mollifiers of a Declaration of War While a declaration of war could bring about a transformation that might contribute to the chances of a resolution; the same transformation could also work against Israel's strategic interests. Therefore it is important to conceptualize the factors having the power to foment and to mollify a declaration of war. It should be noted that the same factor might appear to simultaneously foment and mollify, as might be expected of something as complex and dichotomous as a declaration of war. 9.1 Mollifiers Acclimatization of the Israeli public. Alongside a sharp increase in the level and extent of violence, the Israeli public becomes accustomed to a constant state of emergency, anxiety and threat. As the intensity of the conflict rises on the NRR axis, adjustment to it reaches proportionately new and surprising levels. Throughout the peaks we observe the population's resilience as it adapts to this changing and escalating reality. Therefore we view such acclimatization as a mollifier to declaring war. National resilience. National resilience is defined as the level of preparedness of a nation's home front to cope with crises, in relation to various threatening scenarios, with the involvement of all bodies comprising emergency deployment, such as health and education systems, home front security, including defense measures, and more (Elran, 2010). Most prominent of them all is "social resilience," which translates into civilian readiness to cope with the harsh consequences of a military conflict, and a subsequent rapid recovery and return to routine functioning in an effort to avoid the public becoming overwhelmed and fragmented. Quick acclimatization of the nation gives rise to the emergence of national resilience, which mollifies the motivation of political echelons to declare war. Time and international legitimization. Time works against Israel. The longer the duration of bouts of violence, the greater the international pressure and the more the country's resources dwindle. The act of declaring war turns the dialogue on human rights into a strategic and political one, with the result that Israel is ultimately unable to convert its clear military advantage into a decisive resolution. This is what happened, for instance, in the last operation (Pillar of Defense) that Israel conducted in Gaza in November 2012, which was seen by many as a "rerun" of Operation Cast Lead, with no resolution forced on Hamas. Hence, the longer the conflict continues, the less likely a declaration of war will be issued. 9.2 Fomenters Level and extent of violence. Over the many years of the present conflict Hamas has markedly escalated and increased the militancy of its measures against Israel and its civilian population. While building up its military and technological capability, Hamas does not consider itself subject to the laws of war. As a result, the organization increases the impact of its success by committing terror attacks ever closer to the center of Israel. Operation Pillar of Defense in November 2012 provides a clear example. Overall, since Hamas took power, the number of terror attacks originating from Gaza has grown: from 2,137 in the year when Hamas came to power (as compared to 1,831 during the previous year) to 3,023 in 2008, prior to the start of Operation Cast Lead (www.shabak.gov.il). Such a sharp increase indicates an ongoing rise in the intensity of the conflict; hence the pressing need to bring it to an end. The rising level of violence then can be viewed as a fomenter to declaring war. Establishment of a state governed by Hamas. As Hamas progresses further towards establishing itself as a state, it becomes more vulnerable to threats by Israel. Cost-benefit considerations change as responsibility to its civilian population increases and Israel's superior military capability has a greater influence in those calculations. (Note 13) Hence, the more established Hamas becomes, the easier it will be for Israel to threaten it by declaring war. 9.3 Factors that Foment and Mollify Simultaneously International legitimization of the use of force. Israel suffers from a fundamental international de-legitimization of its actions, especially in relation to the use of force against a civilian population. Following Operation Cast Lead (2008-2009), and notwithstanding IDF's efforts to avoid collateral injury to civilians, the Goldstone Report was severely critical of Israel's use of force in the Gaza Strip. (Note 14) In May 2010, a Turkish flotilla (the MV Mavi Marmara) arrived off Gaza, further undermining Israel and its legitimization. Israel's inherent need to legitimize its actions in the broader international community could be construed as both a modifier and a fomenter. On the one hand the country's need for legitimization could lead to a declaration of war under international law. On the other hand, Israel's fear of being perceived as hostile by the world in general and its need for external legitimization act as modifiers. Internal legitimization of the use of force. The democratic system dictates the need to obtain domestic legitimization for the political regime, but "the complexity of strategic thought and the paradoxical principles on which it is based make it a difficult matter to market and explain [...] to the Israeli public [...]. Such paradoxical inconsistencies, the synergies of opposites and contradictions, are almost impossible for the general public to grasp" (Michael, 2009). Therefore, the need for legitimization from the Israeli public if seen as a unifying act promising a widespread shift in consciousness could prove a fomenter. On the other hand, it could turn out to be a mollifier in a situation where society is divided, or if the political echelons anticipate that the public will not support a declaration of war and will be unwilling to join the ranks of the struggle. "Legalization" in political and military echelons: There is a significant difference between the way the ceremony of declaration of war is perceived in the eyes of the law and the way it is viewed from a strategic and anthropological point of view. The more the dialogue veers towards the legal, the more will it mollify a possibility to declare war. The more strategic and anthropological the focus of the dialogue, the more it is based on a broad interdisciplinary view, the more likely it is to foment the issuance of declaration of war. 10. Summary This article presents a variety of paradigms to examine and take a fresh look at the phenomenon of a declaration of war on the assumption that a declaration can make a significant contribution to settling protracted conflicts characterized by extreme violence. Instead of looking at a declaration of war from a one-dimensional, strictly legal angle, it can instead be seen as a ceremony and a means for transformation. The connection and overlap between various contrasting disciplines is actually helpful in redefining the phenomenon and highlighting the contribution it can make, a contribution which for many decades was ignored and overlooked by decision makers. Despite the clear disadvantages of declaring war, **a declaration has the ability to alter the asymmetrical dimension of the conflict and promote more balanced relations between enemies**. Among other things, **this means legitimizing the struggle of the other party, i.e. Hamas, to the conflict. Although that statement might sound contradictory to the political rationale that has hitherto shaped political activity and policy towards Hamas, it may be in line with another kind of strategic rationale,** ***whereby a transformation in the very structure of the conflict, affected by altering the balance of power and asymmetry between the parties, can result in resolution of the conflict.***

**Oren ’08** (Michael B, Israeli Ambassador to the US, senior fellow at the Shalem Center in Jerusalem, is the author of "Six Days of War" and "Power, Faith, and Fantasy: America in the Middle East, 1776 to the Present." Washington Post, 3-2, “The Next Mideast War, Just A Rocket Away” lexis, jj)

**It begins with a single Qassam rocket, one of the thousands of homemade projectiles fired in recent years by** the Islamic radicals of **Hamas** from the Gaza Strip into southern Israel. The rockets have made life nightmarish for many Israelis but have largely missed their targets. But this one gets "lucky": **It smashes into an elementary school**, wounding 40 children and killing 15. **The Israeli government**, which had heretofore responded to the Qassams with airstrikes and small ground raids, **cannot resist the nationwide demand for action**. Within hours, **tens of thousands of Israeli troops and hundreds of tanks are rushing into Gaza**, battling house-to-house in teeming refugee camps. Just as swiftly, Palestinian officials accuse Israel of perpetrating a massacre and invite the foreign press to photograph the corpse-strewn rubble. **The images flash around the Middle East on al-Jazeera** TV and **trigger violent demonstrations** in Arab capitals. **Hezbollah**, the radical Lebanese Shiite militia, then **gets into the act**, raining Katyusha rockets on northern Israel. But **when Israeli warplanes bomb the Katyusha batteries, Syria leaps in**, sending its commandos to retaliate by capturing key Israeli bunkers atop the Israeli-occupied Golan Heights. **Israel's counterattack succeeds only in precipitating a hailstorm of Syrian Scud-D missiles, some armed with chemical warheads, into Israeli cities**. Then, just as Israeli planes are incinerating the main electrical plant in Damascus, the first of **hundreds of** Shehab-3 **rockets, pre-targeted at Tel Aviv, lift off from Tehran.** Sound fantastical or too horrific to ponder? Not to Israeli intelligence analysts it doesn't. **The Israeli military recently conducted a round of large-scale war games based precisely on this scenario.** In some rounds, Israel managed to humble Hamas and Hezbollah while shooting down most of the Iranian and Syrian rockets with its own Arrow and Patriot antimissile systems. But other forecasts went far less well: **Israel survives but barely, with its cities devastated and countless civilians killed**. This is the mess that will soon land in the lap of President Clinton, President Obama or President McCain. Despite the shadows of 9/11 and Iraq, the U.S. primary season thus far has been dominated by the economy. But it's a mistake to assume that the next presidency will be. Instead of a honeymoon**, the** new **president could inherit a brush fire raging out of control in a volatile region where U.S. involvement has never been deeper.** Would he or she merely convene the U.N. Security Council, or rush to Israel's defense? And how, in the event of a general Middle East war, would the president safeguard the woefully exposed U.S. forces in Iraq? **The Middle East will continue to be the source of the gravest threats to U.S. security, whether in the long-term form of a nuclear-armed Iran or the short-term one of an unforeseen multistate war**. So the candidates must be pressed about how they would handle a chain reaction in which events in Gaza suddenly engulf the entire region. To borrow an old slogan: It's the Middle East, stupid. **The possibility that a border scrap between Israelis and Palestinians could ignite a regional conflagration should not be too surprising.** A very similar concatenation of events led to the most volcanic eruption in the region's modern history, irreparably convulsing the Middle East and carving many of the furrows that still destabilize it. That conflict, too, began with Palestinian attacks into Israel, a series of Israeli reprisals and a mass clamoring for revenge. The countdown began just over 43 years ago, on New Year's Eve, 1964, when Palestinian guerrillas belonging to the Fatah faction crossed the Lebanese border to attack Israel. Though the infiltrators were intercepted, Fatah's leader, Yasser Arafat, declared the raid a heroic victory and dared Arab rulers to match his audacity. Few could. The Arab world at the time was split between two warring camps: the socialist, pro-Soviet dictators in Egypt, Syria and Iraq and the conservative, pro-Western monarchs in Saudi Arabia, Jordan and elsewhere. Egypt's fiery leader, Gamal Abdul Nasser, gleefully branded King Hussein of Jordan a Zionist "whore," ratcheting up the tension by hinting that the kings were American lackeys. Despite the rhetoric, Arab rulers did not really want war with Israel. But Arafat's challenge left them little choice. Nasser responded by ordering the Palestine Liberation Organization, originally established as an Egyptian propaganda tool, to launch its own cross-border attacks. The Israelis lashed back, blowing up Fatah's West Bank headquarters. Jordan accused Nasser of "hiding behind the skirts" of the U.N. peacekeepers deployed in the Sinai to separate Egypt and Israel. Mortified, Nasser ousted the U.N. forces on May 15, 1967, and closed a strategic Red Sea shipping route to Israeli vessels. Suddenly, Nasser was the champion of the Arab "street," hailed by huge demonstrations that demanded Israel's destruction. The Arab world closed ranks behind him. Shorn of international allies, Israelis were convinced that they faced annihilation. But then Israel struck first. On the morning of June 5, Israeli warplanes obliterated almost the entire Egyptian air force, and Israeli tanks rumbled through Gaza and Sinai. At the end of six days of fighting, Israel had nearly quadrupled the territories under its control, among them the West Bank, the Golan Heights and Gaza. A new era -- and new sources of Middle East bloodshed -- had emerged. Much has since changed in the Middle East. The Cold War is largely forgotten, as is the 1960s enmity among most Arab regimes. Israel remains a powerhouse, with more high-tech companies than Western Europe, an ironclad alliance with the United States and (it's widely assumed) a nuclear arsenal. Arafat's successor, Mahmoud Abbas, now rules the West Bank as the head of a Palestinian Authority publicly committed to coexistence with the Jewish state. But for all these transformations, **the Middle East remains the same explosive context of conflict it was in the 1960s. The region is still bitterly divided** -- not between Arab nationalism and conservatism but between religious moderation and the surge of Islamist extremism spurred, in part, by the Six-Day War. **Backed by Syria and Iran, a phalanx of terrorist groups threatens Israeli and Arab societies alike. Israel** has peace treaties with Egypt and Jordan and is engaged again in peace talks with the Palestinians, but it **is still an object of abomination for the overwhelming majority of Middle Easterners.** And violence in Gaza -- now run by a democratically elected Hamas government -- can still spark turbulent demonstrations throughout the region's streets. If anything, **the Middle East is even more flammable today than in the 1960s because of the countless thousands of short- and long-range missiles in its armies' arsenals. These weapons vastly amplify the potential destruction of any military** **confrontation while slashing the amount of decision-making time that might be needed to avert all-out war**. And **modern weapons, including unconventional ones, make everything scarier.** **A conflict between Israel and Iran might not last six days but six hours, unleashing shock waves even more seismic than those of 1967.** Contemporary Middle Eastern leaders cannot afford to ignore these lessons. Neither can decision-makers -- and would-be ones -- in the United States. Though **the** waning Bush **administration** is focused on trying to reach an Israeli-Palestinian peace treaty, shore up Iraq and flex its muscles at Iran, it **should not downplay the danger that a seemingly limited border skirmish could rapidly** **escalate into a regional catastrophe**. Nor should Bush's heir. **The** next **commander in chief may have to proceed directly from the inauguration to the Situation Room to try to defuse a Middle Eastern crisis of monumental dimensions. That moment could be a single Qassam away.**

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### 2NC Turns Case – Heg

**Institutionally weakened executive kills U.S. leadership—makes us look arrogant, hypocritical, and kills our ability to commit militarily.**

**Mallaby 2K**

[Sebastian Mallaby, Director of the Maurice R. Greenberg Center for Geoeconomic Studies and Paul A. Volcker Senior Fellow for International Economics at the Council on Foreign Relations, “The Bullied Pulpit; A Weak Chief Executive Makes Worse Foreign Policy,” Foreign Affairs, February 2000, <http://www.lexisnexis.com/hottopics/lnacademic/?verb=sr&csi=7984&sr=HLEAD(Bullied%20Pulpit-A%20Weak%20Chief%20Executive%20Makes%20Worse%20Foreign%20Policy,%20The)%20and%20date%20is%202000>]

All of these arguments may have merit. The evidence cited by both camps can be better explained by the structural weakness of the presidency. **Take**, for example, **one celebrated error: President Clinton's declaration at the start of the Kosovo war that the Serbs need not fear NATO ground troops. This announcement almost certainly cost lives by encouraging the Serbs to believe that America was not serious about stopping ethnic cleansing. The ad hominem school sees in this example proof of Clinton's incompetence; the sociological school sees in it proof of isolationist pressure, which made the option of ground troops untenable.** But **a third explanation, offered privately by a top architect of the Kosovo policy, is more plausible**. According to this official, **the president knew that pundits and Congress would criticize whichever policy he chose. Clinton therefore preemptively took ground troops off the table, aware that his critics would then urge him on to a ground war -- and also aware that these urgings would convince Belgrade that Washington's resolve would stiffen with time, rather than weaken. The president's stand against ground troops was therefore the logical**, tactical **move of a leader feeling vulnerable to his critics. Other failings of American diplomacy can likewise be accounted for by the advent of the nonexecutive presidency.** **Several commentators**, notably Samuel Huntington and Garry Wills in these pages, **have attacked the arrogance of America's presumption to offer moral leadership to the world. But American leaders resort to moral rhetoric largely out of weakness. They fear that their policy will be blocked unless they generate moral momentum powerful enough to overcome domestic opponents**. Likewise, **critics point to the hypocrisy of the United States on the world stage. America seeks U.N. endorsement when convenient but is slow to pay its U.N. dues; America practices legal abortion at home but denies funds to organizations that do the same abroad.** Again**, this hypocrisy has everything to do with the weak executive. The president has a favored policy but is powerless to make Congress follow it. Still other critics decry American diplomacy as a rag-bag of narrow agendas:** Boeing lobbies for China trade while Cuban-Americans demand sanctions on Cuba. Here, too, presidential power is the issue. **A strong presidency might see to it that America pursues its broader national interest, but a weak one cannot**. This is why Clinton signed the Helms-Burton sanctions on Cuba even though he knew that these would do disproportionate harm to U.S. relations with Canada and Europe. What if **America's nonexecutive presidency is indeed at the root of its diplomatic inadequacy**? First, it follows that **it is too optimistic to blame America's foreign policy drift on the weak character of the current president. The institution of the presidency itself is weak, and we would be unwise to assume that a President Gore or Bradley or Bush will perform much better. But it also follows that it is too pessimistic to blame America's foreign policy drift on cultural forces that nobody can change, such as isolationism or multiculturalism. We are dealing with an institutional problem, so it will take institutional reform to improve matters. America must explore ways of arresting the erosion of executive power,** by streamlining the confirmation process, by reversing the Supreme Court's Clinton v. Jones decision in order to limit the executive's vulnerability to legal assault, and by avoiding legislated mandates in foreign policy. Since the republic's founding, **Americans have been suspicious of concentrated power.**

### 2NC Turns Case - Circumvention

#### Turns case – a restriction on the president’s powers will cause him to seek more – that means the president will seek to circumvent the aff

Laura Young, Ph.D., Purdue University Associate Fellow, June 2013, Unilateral Presidential Policy Making and the Impact of Crises, Presidential Studies Quarterly, Volume 43, Issue 2

A president looks for chances to increase his power (Moe and Howell 1999). Windows of opportunity provide those occasions. These openings create an environment where the president faces little backlash from Congress, the judicial branch, or even the public. Though institutional and behavioral conditions matter, domestic and international crises play a pivotal role in aiding a president who wishes to increase his power (Howell and Kriner 2008, 475). These events overcome the obstacles faced by the institutional make-up of government. They also allow a president lacking in skill and will or popular support the opportunity to shape the policy formation process. In short, focusing events increase presidential unilateral power.

### Link

#### Congressional intervention collapses crisis response --- they’re too inflexible, inexperienced, and open --- the link threshold is low

Eric A. Posner, Kirkland & Ellis Professor, University of Chicago Law School, Winter, 2012, “REFLECTIONS ON THE LAW OF SEPTEMBER 11: A TEN-YEAR RETROSPECTIVE: DEFERENCE TO THE EXECUTIVE IN THE UNITED STATES AFTER SEPTEMBER 11: CONGRESS, THE COURTS, AND THE OFFICE OF LEGAL COUNSEL,” 35 Harv. J.L. & Pub. Pol'y 213, Lexis

THE DEFERENCE THESIS¶ The deference thesis states that during emergencies the legislature and judiciary should defer to the executive. n8 It assumes that the executive is controlled by the President, but to the extent that the President could be bound by agents within the executive, the deference thesis also holds that those agents should follow the President's orders, not the other way around. In normal times, the three branches of government share power. For example, if the executive believes that a new, dangerous drug has become available, but possession of the drug is not yet illegal, the executive may not act on its own to detain and prosecute those who deal and use the drug. The legislature must first enact a statute that outlaws the drug. The executive also depends on the legislature for financial appropriations and other forms of support. The executive also faces constraints from the courts. If the executive arrests drug dealers and seeks to imprison them, it must first obtain the approval of courts. The courts ensure that the executive does not go beyond the bounds of the new law, does not violate earlier-enacted laws [\*215] that have not been superseded by the new law, and does not violate the Constitution.¶ In emergencies, the executive often will contemplate actions that do not have clear legislative authority and might be constitutionally dubious. For example, after September 11, the U.S. government engaged in immigration sweeps, detained people without charges, used coercive interrogation, and engaged in warrantless wiretapping of American citizens. n9 Many, if not all, of these actions would have been considered violations of the law and the U.S. Constitution if they had been undertaken against normal criminal suspects the day before the attacks. After September 11, both the legislature and the courts gave the executive some deference. The legislature gave explicit authorities to the executive that it had initially lacked; n10 the courts did not block actions that they would have blocked during normal times. n11 But neither body was entirely passive. Congress objected to coercive interrogation and did not give the executive all the authorities that it requested. n12 After a slow start, the courts also resisted some of the assertions the executive made. There is some dispute about whether this resistance was meaningful and caused the executive to change policy or merely reacted to the same stimuli that caused the executive to moderate certain policies independently. n13 In any event, no one disputes that the courts gave the executive a nearly free pass over at least the first five to seven years of the conflict with al Qaeda.¶ The deference thesis, then, can be strong-form or weak-form. This ambiguity has had unfortunate consequences for debates about post-September 11 legal policies. Few people believe that the courts should impose exactly the same restrictions on the [\*216] executive during an emergency as during normal times. Indeed, doctrine itself instructs courts to balance the security value of a course of action and its cost to civil liberties, implying that certain actions might be legally justified to counter high-stakes threats but not to counter low-stakes threats. n14 Nor does anyone believe that the executive should be completely unconstrained.¶ The debate is best understood in the context of the U.S. government's post-September 11 policies. Defenders of these policies frequently invoked the deference thesis--not so much as a way of justifying any particular policy, but as a way of insisting that the executive should be given the benefit of the doubt, at least in the short term. n15 The deference thesis rests on basic intuitions about institutional competence: that the executive can act more decisively and with greater secrecy than Congress or the courts because it is a hierarchical body and commands forces that are trained and experienced in countering security threats. The other branches lack expertise. Although they may have good ideas from time to time, and are free to volunteer them, the ability of the executive to respond to security threats would be unacceptably hampered if Congress and the courts had the power to block it to any significant degree.¶ Secrecy is an important part of the argument. Policymaking depends on information, and information during emergencies often must be kept secret. Congress and the courts are by nature and tradition open bodies; if they were to act in secret, their value would be diminished. Meanwhile, the argument continues, the fear of an out-of-control executive who would engage in abuses unless it was constrained by the other branches is exaggerated. The President has strong electoral and other political incentives to act in the public interest (at least, in the United States). Even if the executive can conceal various "inputs" into counterterrorism policy, it cannot conceal the "output"--the existence, or not, of terrorist attacks that kill civilians.¶ Thus, it was possible for defenders of the Bush Administration's counterterrorism policies to express discomfort with certain policy choices, while arguing nonetheless that Congress and the courts should not try to block executive policymaking [\*217] for the duration of the emergency--at least not as a matter of presumption. Critics of the Bush Administration argued that deference was not warranted--or at least not more than a limited amount of deference was warranted, although again these subtleties often were lost in the debate--for a variety of reasons. I now turn to these arguments.¶ II. EXTERNAL CONSTRAINTS: THE PROTOCOL ANALOGY¶ A. Medical Protocols¶ In an article published a few years ago, Professor Holmes uses the arresting image of the medical protocol as a device for criticizing the deference thesis--or, more broadly, the thesis that the executive should be "unconstrained" during emergencies. Holmes describes his own experience in an emergency room, where his daughter had been brought with a serious injury:¶ At a crucial moment, two nurses rushed into her hospital room to prepare for a transfusion. One clutched a plastic pouch of blood and the other held aloft my daughter's medical chart. The first recited the words on the bag, "Type A blood," and the other read aloud from the file, "Alexa Holmes, Type A blood." They then proceeded, following a prepared and carefully rehearsed script to switch props and roles, the first nurse reading from the dossier, "Alexa Holmes, Type A blood," and the second reading from the bag, "Type A blood." n16¶ To the layman, the repetitive actions of the nurses seem senseless. Why are they repeating themselves when the patient might die unless she receives the blood transfusion immediately? Surely, the nurses should depart from the script rather than follow it in a time of extreme medical urgency. Yet the protocol makes good sense. Experience has taught medical personnel that basic errors--the transfusion of the wrong blood--occur frequently, and that they can be avoided through the use of simple protocols. Although following the protocol uses valuable time, in practice the increased risk to the patient as a result [\*218] of the loss of time is less than the risk caused by the errors that protocols are designed to prevent. n17¶ The larger and more striking point of the example is that, even during emergencies, when the stakes are high and time is of the essence, agents should follow rules rather than improvise. In this way, agents should be constrained. n18 This argument has potentially radical implications. Recall that the conventional objection to deference is that the risk of executive abuse exceeds the benefits of giving the executive a free hand to counter al Qaeda. Professor Holmes argues--although at times he hedges--that in fact the benefits of giving the President a free hand are zero: A constrained executive, like a constrained medical technician, is more effective than an unconstrained executive. If the benefits of lack of constraint are zero, then the deference thesis is clearly wrong. Constraints both prevent executive abuses such as violations of civil liberties and ensure that counterterrorism policy is most effective.¶ B. Rules and Standards¶ The arresting medical protocol example helps clarify the tradeoffs involved, but it remains merely an illustration of the familiar rules versus standards tradeoff that has been a staple of the legal literature since time immemorial. n19 A rule is a norm that directs the decisionmaker to ignore some relevant policy considerations when deciding on a course of action; a standard is a norm that directs the decisionmaker to take into account all relevant policy considerations when deciding on a course of action. The familiar example is the speed limit. A sixty-mile-per-hour speed limit tells the driver that she does not face a legal sanction if she drives below sixty miles per hour, and that she does face a legal sanction if she exceeds that speed. A standard--for example, "drive carefully"--tells the driver that she does not face a legal sanction if she drives carefully, but that she does if she drives carelessly. The standard, unlike the rule, directs the driver to take into account all relevant considerations--the weather, traffic congestion, her own skill and [\*219] experience, the responsiveness of her car, and so on--when deciding how to drive.¶ A skilled and experienced driver who drives at sixty-five miles per hour on a clear day on an empty, straight road poses little threat to anyone, and most people would regard her driving as careful. Thus, under the standard she could not be held liable, although under a rule she would be. Meanwhile, an inexperienced driver who drives sixty miles per hour on a congested, dangerous road, at night, in bad weather, would probably be regarded as careless. He would be held liable under a standard but not under the rule. It is in the nature of standards that we cannot be sure that he would be held liable; it depends on the biases, intuitions, and experiences of the legal decisionmaker. n20 Thus, we say that applying standards involves high decision costs. It is in the nature of rules that we can easily tell whether the driver would be held liable or not, but only because the legal decisionmaker is forced to ignore relevant moral and policy considerations that otherwise complicate evaluation. Rules are under-and over-inclusive; by design, they cause error.¶ These considerations lead to a basic prescription. n21 Rules should be used to govern recurrent behavior, and standards to govern unusual behavior. Experience teaches us that if drivers obey certain rules (such as speed limits), the risk of accidents is greatly reduced, although judicious choice of (sometimes complex) rules ensures that error costs are low. When legislatures enact new rules, they can invest a great deal of time and effort determining the optimal rules, because the cost of the rules are then spread out over many instances of the behavior that the legislatures seek to regulate. Yet rules frustrate us because there always seems to be some new, unanticipated case where the application of rules leads to an injustice. The speed limit rule should not apply to the parent who rushes a badly injured child to the hospital. And there are many cases where rules can too easily be gamed. Tax rules, no matter how intricate, can be exploited: Lawyers set up tax shelters that evade the purpose of the rules. Congress reacted to this problem initially by creating ever more complex rules, but eventually trumped them [\*220] with a standard that prohibited bad faith evasion of the tax laws. n22¶ The legal landscape is a complex mix of rules and standards, which often overlap. Drivers must obey both traffic rules like the speed limit and traffic standards like laws against reckless driving and tort norms against negligent driving. Indeed, one can think of traffic norms as complex rules with standards--where there are apparently bright-line rules (drive under sixty miles per hour) that are subject to muddy standards (unless there is an emergency).¶ Medical protocols are just one more example of a choice along the rules-standards continuum. The nurses Professor Holmes describes follow a protocol that ensures that they do not use the wrong blood in a transfusion. Likewise, doctors are instructed to clear the windpipe before staunching the wound. n23 These protocols, like the speed limit, reflect generalizations from past medical experience. Delaying the blood transfusion is less risky than permitting only one nurse to check the blood type. Letting the blood flow from the wound is less risky than leaving the windpipe blocked. In the absence of protocols, medical practitioners may misjudge the situation, or panic, or allow themselves to be distracted by irrelevant factors (the goriness of the wound calls out for attention while the blocked windpipe is hidden). It is important to see that these rules, like the speed limit, are mere generalizations, and in individual cases the generalizations might be wrong. The patient dies because of the delay before the transfusion, yet we instruct medical practitioners to follow the rules because otherwise they are likely to make worse or more frequent errors.¶ That uncompromising rules produce high error costs supports adopting sensible exceptions to rules. Indeed, medical practitioners may violate protocols. The reasons are obvious. Consider Professor Holmes's insistence that the rule "always wash your hands" is unalterable and written in stone. n24 This clearly cannot be the case. Suppose that, in the midst of an emergency involving a patient with a serious trauma, the staff [\*221] is informed that the tap water is tainted, it is discovered that a patient has a rare allergy to the only soap available in the emergency room; or, for that matter, the emergency room runs out of soap. Common sense (which is just the application of the standard, "help the patient at minimal risk to him and oneself") will tell the doctors and nurses to deviate from the protocols when they clearly interfere with medical necessity. If they did not, they would be sued, and rightly so. The protocols, like many rules, turn out to be presumptions, which may be overcome by the press of events. That is why medical professionals are so highly trained; if one could really treat patients by following algorithms, one would not need doctors who have vast training and experience that supplies them with judgment and the ability to improvise. n25¶ In sum, medical protocols, like rules, provide a valuable service by simplifying the decision-making process at times of high stress, but, like rules, they unavoidably produce wrong results if they are not applied sensitively. Usually, when the stakes are high, rules and protocols create presumptions, but the decisionmaker is free to violate the presumption if circumstances suggest that that the presumption is based on factual assumptions that turn out not to be true in the particular setting in which the decisionmaker finds himself.¶ C. Rules and Standards During Emergencies¶ I now turn to the bulk of Professor Holmes's argument. Professor Holmes is right to identify confusion about the nature of emergency, and it is useful to distinguish a rule-development stage--which often but not always takes place before the emergency--and a rule-application stage--which takes place during the emergency. Holmes argues that during the emergency, rule application should be controlled by protocol, so the executive does not need (much) discretion; while pre-emergency, rule development does not need to be rushed and secret, so the executive can collaborate with Congress. The first problem with [\*222] this argument is that during the emergency one can follow protocols rather than exercise discretion only if the emergency is the same as earlier emergencies. This was not the case for September 11, though it may be the case for other security threats. The second problem is that the rule-development stage cannot always take place during normal times. For example, September 11 required not only an immediate response to the newly discovered threat but also the development of new rules under the shadow of that threat. Those rules needed to be developed quickly and (for the most part) secretly, and these exigencies limited the ability of Congress to contribute. A final point is that Holmes ignores an important dimension of the problem: the difference between agents, who in theory can merely follow rules and protocols, and principals, who cannot. The Bush Administration did in fact recognize the value of protocols and used them frequently; it just did not apply them to itself.¶ 1. Two Concepts of Emergency¶ Professor Holmes makes a valuable point, often neglected in the literature, that there are two distinct phases for addressing emergencies n26 --what I will call the stage of rule development and the stage of rule application. As we will see, the two stages can run together, but conceptually they are distinct. The rule-application stage comes when the patient is on the gurney. The doctors follow the protocols in the course of helping the patient. The rule development stage occurs earlier. Someone must decide what the protocols should be. Someone had to invent the rule that two nurses must check the blood type and that doctors should unblock the windpipe before staunching wounds--just as the legislature must determine the speed limit before drivers comply with it and police enforce it.¶ We might use the word "emergency" to refer to the time of rule application. As Professor Holmes points out, however, for the medical professionals, what seems like an emergency to a layperson is not an emergency at all. n27 They just apply the protocols that have been drilled into them, no different from assembly-line workers. Under this definition of "emergency," it is hard to support the deference thesis and those who argue that the executive [\*223] must be unconstrained during emergencies. If doctors are constrained during emergencies, why not executives?¶ If we refer instead to the time of rule-development, reliance on the idea of emergency seems even less appropriate. The doctors who develop emergency room protocols do not do so under time pressure but at their leisure. They also can do so in a large body, so as to take advantage of the perspectives of many different people, and in public, so that all stakeholders have a say. The executive can as well, the argument goes. When the executive determines the rules that will govern the response during a terrorist attack, it does so in advance, and it can, indeed should, do so in consultation with Congress and subject to judicial constraint.¶ Thus, executive deference is unnecessary. During rule development, there is no emergency, and so the executive, Congress, and the courts can collaborate in developing appropriate rules that will govern during emergencies. They can do so openly, deliberately, and slowly, with full respect for constitutional norms. During rule application, there is an emergency, but the executive can merely follow the rules or protocols that were developed during the rule-development stage. Thus, in the rule-application phase, executive discretion is unnecessary. It follows that deference to the executive is also unnecessary. During rule development, Congress has no reason to defer to the executive. During rule application, courts also have no reason to defer to the executive, but should instead insist that the executive comply with the rules.¶ 2. Rule Application¶ Let us consider the stages in reverse order. We already have addressed some of the problems with Professor Holmes's argument from protocols. Rules are seldom as bright-line as they first appear. They often turn out to be presumptions which are themselves subject to standards (drive under the speed limit unless there is an emergency). It is true that security threats, like medical emergencies, often fall into patterns and can be addressed in partially rule-governed fashion. Thus, when a gunman takes a hostage, the police follow certain rules: first clearing the area, then making contact with the gunman, and so on. Some officers will be given very simple rule-governed tasks ("don't let anyone cross this line"). But the rules quickly give out. Every hostage-taker is different, and the most highly [\*224] trained police officers will be given a great deal of discretion to deal with him and to make the crucial decision to use force. But even these types of threats are simple compared with the scenario that opened up on September 11. The government knew virtually nothing about the nature of the threat. It did not know how many more members of al Qaeda were in the United States, what their plans were, what resources were at their disposal, what their motives were, or how much support they had among American Muslims. n28 Protocols were worthless because nothing like the attack had ever happened before. (The closest analogy seemed to be the absurdly irrelevant example of Pearl Harbor.) The government could not follow rules; it had to improvise subject to a vague standard--protect the public while maintaining civil liberties to the extent possible. Improvise it did--instituting detentions, sweeps, profiling, surveillance, and many other policies on an unprecedented (in peacetime, if that was what it was) scale. n29¶ For the rule-application stage, the deference thesis counsels Congress and the judiciary to (presumptively) defer. Congress simply cannot set about holding hearings, debat[e]ing policy, and vot[e]ing on laws in the midst of emergency. Either the problem will not be addressed, or Congress will end up voting on a bill that it has not written, debated, or even read. n30 For courts, too, the alternatives are unrealistic. If courts enforce rules developed for normal times, then they will interfere with the proper response to the terrorist threat, just as they would if they required the U.S. military to comply with the Fourth Amendment on the battlefield. Alternatively, the courts could insist on applying a standard and halt executive actions that, in the courts' view, violated the standard described above--protect the nation while maintaining civil liberties to the extent possible. But here the courts are at a significant disadvantage. They do not have information [\*225] about the nature of the threat. n31 Courts can demand this information from the government, but the government will not give it to them because the government fears leaks (to say nothing of recalcitrance caused by rivalries among intelligence agencies). Moreover, judges are inexperienced in national security unlike the specialists in the executive branch.

#### Congressional involvement cripples warfighting – extinction

Weinberger 9 [Seth Weinberger, Assistant Professor in the Department of Politics and Government at the University of Puget Sound, M.A. and Ph.D. in Political Science from Duke University, "Balancing War Powers in an Age of Terror", The Good Society, 18(2), <http://muse.jhu.edu/journals/good_society/v018/18.2.weinberger.html>]

**In wartime**, however, **it may be** neither expedient nor strategically sound **for the president to be forced to come before Congress for permission for each and every legislative action deemed necessary** for the war effort. C**ircumstances in war are** fluid and unpredictable**, and legislation passed at one time may quickly become irrelevant or obsolete. The deliberation and compromise that are the hallmarks of congressional legislation may be ill-suited to war, which demands** swift and decisive action **to keep on top of rapidly shifting military situations**. As one scholar puts it, "**Congress at war is not a pretty sight. The legislative branch can be questioning and judgmental, impatient for victories yet free with inexpert advice, slow to provide the men and materiel for combat, reluctant to vote the taxes needed to pay for the war, critical of generals, and careless with secrets**."25 **In times in which the country faces an** existential, or otherwise exceedingly dangerous, threat**, it may not behoove the president, the military, or the nation as a whole to require the president to ask Congress time and time again to enact laws to advance the war effort.**

### 2NC Congress Link Wall

#### Congressional deliberation is ill-suited to wars that require swift action – the plan hampers swift action

**Weinberger 9** [Seth Weinberger, Assistant Professor in the Department of Politics and Government at the University of Puget Sound, M.A. and Ph.D. in Political Science from Duke University, "Balancing War Powers in an Age of Terror", The Good Society, 18(2), <http://muse.jhu.edu/journals/good_society/v018/18.2.weinberger.html>]

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### 2NC Confusion

#### Confusion – congressional involvement creates murky lines of authority – undermines warfighting

**Wall 12 – senior official @ Alston & Bird**

**(Andru,** Demystifying the Title 10-Title 50 Debate: Distinguishing Military Operations, Intelligence Activities & Covert Action, Harvard National Security Journal)

**Congress’s** failure to provide necessary interagency authorities and budget **authorizations threatens our ability to** prevent and **wage warfare. Congress’s stubborn insistence that military and intelligence activities inhabit separate worlds** **casts a pall of illegitimacy over interagency support, as well as unconventional and cyber warfare.** The U.S. military and intelligence agencies work together more closely than perhaps at any time in American history, yet **Congressional oversight and statutory authorities** sadly **remain mired in an obsolete paradigm.** After ten years of war, Congress still has not adopted critical recommendations made by the 9/11 Commission regarding congressional oversight of intelligence activities. **Congress’s stovepiped oversight sows confusion over statutory authorities and causes Executive Branch attorneys to waste countless hours distinguishing** distinct lines of **authority and funding. Our military and intelligence operatives work tirelessly to coordinate, synchronize, and integrate their efforts; they deserve** interagency authorities and **Congressional oversight that encourages and supports such integration.**

### Speed key

#### Key to winning all future conflicts

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

The U.S. Army War College uses the acronym “VUCA” to describe the volatile, uncertain, chaotic and ambiguous environment in which strategy is made.4 If the present is any indication of the future, then it is reasonable to assume that the world will become increasingly dangerous as long as that strategic environment exists. Many long-range assessments predict that global tensions will continue to rise as resources become even more constrained and as transnational threats endanger international security. 5 Future leaders and planners can expect to see weak and failed states persisting to dominate U.S. foreign policy agendas. Terrorism will remain a vital interest, and the use of American military strength will remain focused on the dissuasion, deterrence, and, where necessary, the preemption of strategic conflict. Enemies will work aggressively to offset U.S. military superiority by seeking out technologies that will offer some level of asymmetric advantage, and the challenging asymmetric nature of future conflicts will add deeper complexity to both war planning and the development of national security strategy. 6 The “National Defense Strategy of the United States,” published in March 2005, addressed the unconventional nature of the future. It argued that enemies are increasingly likely to pose asymmetric threats resulting in irregular, catastrophic and disruptive challenges.7 This means that, in some cases, non-state actors will choose to attack the United States using forms of irregular warfare that may include the use of weapons of mass destruction. These actors may also seek new and innovative ways to negate traditional U.S. strengths to their advantage.8 In fact, one author theorizes that “speed of light engagements” will be the norm by the year 2025, and America may lose its monopoly on technological advances as hostile nations close the gap between technological “haves” and “have nots.”9 This type of warfare lends itself to engagements of varying speed and temporal geometry. 10 Therefore, in conflicts of the future, time and speed will matter. Consequently, it is necessary to analyze these elements with rigor and discipline in order to understand their far-reaching implications.

#### Key to victory in every domain

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

**Military services appear to be increasingly** dependent on speed**,** and these organizations continue to place a premium on its relative value. **The Army’s “Field Manual** 1: The Army,” **embraces** the idea that **speed is critical to its operational concept, necessary for maneuver forces to keep the initiative in battle, and vital towards achieving shock and surprise**.25 **The** United States **Navy looks to speed as an essential component of maritime operations**. In “Fleet Tactics and Costal Combat,” Wayne P. Hughes reasons that speed is necessary to win the sea battle **within the first few shots of an engagement**.26 The United States Air Force has plans to increase the speed and fidelity of command, control, communications and computers, intelligence, surveillance and reconnaissance (C4ISR) to create Predictive Battlespace Awareness over the combat area. The desired end state of these capabilities will be “getting a cursor over a target**”** upon demand.27 Even U.S. **Air Force doctrine is** replete **with references to speed**. The concept of speed clearly underlies the tenets and principles of airpower as an enabling factor.28

### 2NC Deterrence I/L

#### The plan’s restrictions straightjacket presidential flexibility – collapses deterrence making preemptive strikes likely.

Zeisberg, ‘4 [Mariah Zeisberg, PhD in Politics from Princeton, Postdoc Research Associate at the Political Theory Project of Brown University; “INTERBRANCH CONFLICT AND CONSTITUTIONAL MAINTENANCE: THE CASE OF WAR POWERS”; June 2004; found in Word document, can be downloaded from [www.brown.edu/Research/ppw/files/Zeisberg%20Ch5.doc](http://www.brown.edu/Research/ppw/files/Zeisberg%20Ch5.doc)]

The first significant argument of pro-Presidency insularists is that flexibility is a prime value in the conduct of foreign affairs, and especially war. Implicit in this argument is the recognition that the executive is functionally superior to Congress in achieving flexibility and swiftness in war operations, a recognition I share. The Constitution cannot be meant to curtail the very flexibility that may be necessary to preserve the nation; and yet, according to the insularists, any general norm which would include Congress in decision-making about going to war could only undermine that flexibility. Writing on the War Powers Act, Eugene Rostow predicts that it would, “put the Presidency in a straightjacket of a rigid code, and prevent new categories of action from emerging, in response to the necessities of a tense and unstable world.” In fact, Rostow believes, “[t]he centralization of authority in the president is particularly crucial in matters of national defense, war, and foreign policy, where a unitary executive can evaluate threats, consider policy choices, and mobilize national resources with a speed and energy that is far superior to any other branch.” ////

Pro-presidency insularists are fond of quoting Hamilton, who argued that “[o]f all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand.” This need for flexibility, some insularists argue, is especially acute given modern conditions, where devastating wars can develop quickly. Today, “many foreign states have the power to attack U.S. forces - and some even the U.S. mainland - almost instantly,” and in such a world it is impracticable to require the President to seek advance authorization for hostilities. Such a requirement would simply be too risky to U.S. security. We furthermore face a nuclear age, and the system of deterrence that operates to contain that threat requires that a single person be capable of responding to nuclear attack with nuclear weapons immediately. Rostow writes, “the requirement for advance authorization would collapse the system of deterrence, making preemptive strikes by our enemies more likely.” Hence, “modern conditions” require the President to “act quickly, and often alone.” While this does not mean that Congress has no role to play in moments of crisis, it does mean that Congress should understand its role largely in terms of cooperating with the President to support his negotiations and decisions regarding relationships with foreign powers. Rostow writes, “Congress should be able to act effectively both before and after moments of crisis or potential crisis. It may join the President in seeking to deter crisis by publicly defining national policy in advance, through the sanctioning of treaties or other legislative declarations. Equally, Congress may participate formally in policymaking after the event through legislative authorization of sustained combat, either by means of a declaration of war, or through legislative action having more limited legal and political consequences. Either of these devices, or both in combination, should be available in situations where cooperation between the two branches is indicated at many points along an arc ranging from pure diplomacy at one end to a declaration of war at the other.” In other words, for Congress to understand itself as having any justifiable role in challenging executive security determinations, especially at moments of crisis, would be to undermine the strength that the executive requires in order to protect the nation. Conflict in this domain represents political degradation.