## 1NC—T

#### Interpretation – A restriction limits allowable action

**Oxford** Advanced Learner’s **Dictionary** – **2013**, <http://oald8.oxfordlearnersdictionaries.com/dictionary/restriction>

**restriction** NOUN

1 [countable]

**a rule or law that limits what you can do or what can happen**

**import/speed/travel, etc**. **restrictions**

restriction on something to impose/place a restriction on something

The government has agreed to lift restrictions on press freedom.

There are no restrictions on the amount of money you can withdraw.

2 [uncountable]

the act of limiting or controlling somebody/something

sports clothes that prevent any restriction of movement

A diet to lose weight relies on calorie restriction in order to obtain results.

3 [countable]

a thing that limits the amount of freedom you have

the restrictions of a prison

#### Increase means

Increase:

in·crease verb \in-ˈkrēs, ˈin-ˌ\

intransitive verb

**1: to become progressively greater (as in size, amount, number, or intensity)**

2: to multiply by the production of young

**That’s Merriam-Webster 12**, http://www.merriam-webster.com/dictionary/increase?show=0&t=1348112715

#### Violation -

#### Presidential war powers authority derives from congressional authorizations like the AUMF. The AUMF currently only authorizes force against groups with a direct connection to 9/11 –but the affirmative expands the AUMF authorization to include new groups - which means it is an enhancement of presidential authority it is not a restriction

Coronogue 12, JD at duke

(Graham, A NEW AUMF: DEFINING COMBATANTS IN THE WAR ON TERROR, scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294&context=djcil)

The AUMF must be updated. In 2001, **the AUMF authorized force to fight against** America’s most pressing threat, **the architects of 9/11**. However, much has changed since 2001. Bin Laden is dead, the Taliban has been deposed, and it is extremist organizations other than al-Qaeda and the Taliban who are launching many of the attacks against Americans and coalition partners. In many ways, **the greatest threat is coming from groups not even around in 2001, groups such as AQAP and al Shabaab**. Yet **these groups do not fall under the AUMF’s authorization of force**. **These groups are not based in the same country that launched the attacks, have different leaders, and were not involved in planning or coordinating 9/11. Thus,** under a strict interpretation of the AUMF, **the President is not authorized to use force against these groups**. **Congress needs to specifically authorize force against groups outside of al-Qaeda and the Taliban**. Our security concerns demand that the President can act quickly and decisively when facing threats. **The current authorization does not cover many of these threats,** yet it is much more difficult to achieve this decisiveness if the President is forced to rely solely on his inherent powers. A clear congressional authorization would clear up much of this problem. Under Justice Jackson’s framework, granting or denying congressional authorization ensures that President does not operate in the “zone of twilight.”126 Therefore, if Congress lays out the exact scope of the President’s power, naming or clearly defining the targeted actors, the constitutionality or unconstitutionality of presidential actions will become much clearer. Removing the 9/11 nexus to reflect the current reality of war without writing a carte blanche is the most important form of congressional guidance regarding target authorization. **In order for the President to operate under the current AUMF, he must find a strong nexus between the target and the attacks on September 11.** As I have shown in this paper, **this nexus is simply non-existent for many groups** fighting the United States today. **Yet, the President should want to operate pursuant to congressional authorization, Justice Jackson’s strongest zone of presidential authority**. In order to achieve this goal, the administration has begun to stretch the statutory language to include groups whose connection to the 9/11 attacks, if any, is extraordinarily limited. The current presidential practice only nominally follows the AUMF, a practice Congress has seemingly consented to by failing to amend the statute for over ten years. This “stretching” is dangerous as Congress is no longer truly behind the authorization and has simply acquiesced to the President’s exercise of broad authority

#### Topicality is a voting issue

#### Limits – Their aff justifies any aff that has the judiciary or Congress clarify in ways that expand war powers - 1000s of ways to do that

#### Ground – Increasing restrictions is key to stable neg link and cp ground – clarifications to authority make all DA links non-unique – bidirectional affs are especially bad because they are reading neg ground on the aff

## 1NC-DA 1

**Deal will happen now – Republicans are starting to cave because they’ve perceived to have lost**

**Weber 10/4/13**, Peter, The Week, “Multiple reports suggest that the House Speaker won't let the U.S. default on its debt, even if he has to rely on Democrats”, <http://theweek.com/article/index/250643/has-john-boehner-already-caved-on-the-debt-ceiling>

On Thursday, several House Republicans told The New York Times and The Washington Post that House Speaker John **Boehner (R-Ohio) says privately he won't let the U.S. break through the debt ceiling** on October 17, even if he has to rely on Democrats to pass a bill to raise borrowing authority. Not surprisingly, the news prompted headlines like this one from the Lawyers, Guns, & Money blog's Robert Farley: **"Boehner: We won't shoot the hostage." This really is a big deal, if true**. Earlier in September**, Boehner proposed using the debt limit as leverage to get concessions from Democrats on ObamaCare**, but he pulled the plan when his restive Tea Party wing insisted on using the federal budget instead. He followed that strategy, and now the U.S. is in a government shutdown. **The threat of a shutdown got no concessions, and if Boehner takes the debt ceiling off the table, that would appear to be game, set, and match. But is it true? We don't know what Boehner has said exactly, just paraphrases and impressions from named and anonymous lawmakers**. But we do have a statement from Boehner's spokesman, Michael Steel. "The speaker has always been clear that a default would be disastrous for our economy," Steel told The New York Times. "He's also been clear that a 'clean' debt hike cannot pass the House. That's why the president and Senate Democrats should drop their 'no negotiations' stance, and work with us on a plan to raise the debt limit in a responsible way, with spending cuts and reforms to get our economy moving again and create jobs." In **other words, false alarms, says Slate's Matthew Yglesias. The news that Boehner is taking the debt ceiling off the table has "a lot of folks jumping for joy," but "Steele has this right."** Boehner's position has been consistent since the debt-limit standoff in 2011: He says that failing to raise the debt ceiling would be a catastrophe he wants to avoid, but "he requires unrelated public policy concessions in order to agree to a measure that he himself says he supports." **This is still "the classic suicide hostage strategy," says Yglesias: "Do what I want or I'll detonate the bomb strapped to my chest."** On the other hand, Boehner is under a lot of pressure to not tank the economy — not only from Democrats but also Republican governors and well-heeled GOP donors. Given those pressures, there's always the possibility that "some random Republican in the House is worried about Boehner caving and concocted this story for reporters in hopes that there'll be an uproar on the right over it and Boehner will get nervous," says Allahpundit at the conservative site Hot Air. But **it's more likely that Boehner is waving the white flag: You'd need to have an unusually committed ideological warrior in charge for the House to stand firm as Treasury hits the ceiling, with media air-raid sirens about default blaring in the background. Boehner's not that guy.**... I'd go so far as to bet that he'd agree to a clean debt-ceiling hike at the last minute even if he had every reason to believe that it would cost him his Speakership.... Boehner surely has 20 centrist House GOPers willing to vote with Democrats for a clean debt-ceiling hike; even a clean CR to end the much less significant government shutdown seems to be growing more popular in the caucus. **The only obstacle to passing one is his own personal reluctance to face the political consequences from the right of bringing that hike to the floor**. Show of hands: Who thinks that'll stop him after two more weeks of tremendous pressure from the center and the left? [Hot Air] Doug Mataconis at Outside the Beltway, for one. Boehner could have passed a clean debt limit hike with Democratic support during the 2011 standoff, but didn't, he says. "So, the suggesting that he will do it this time around seems rather fanciful at best." The more likely scenario is that the Democrats come to the bargaining table. "**With the public overwhelmingly favoring the idea of the parties negotiating with each other," Mataconis predicts, Democrats won't stick with their "no negotiation" strategy much longer. Obama won't negotiate over the debt limit, and the reason Boehner is floating this trial balloon is that he and his party are starting to realize that, says Brian Beutler at Salon. That doesn't necessarily mean "Republicans have 'folded' exactly, but they've pulled the curtain back before the stage has been fully set for the final act, and revealed who's being fitted with the red dye packet." They've lost, they know it, and all that's left is finding a way to save face**. Boehner's comments may be "a trial balloon designed to gauge how this will play with conservatives," says Greg Sargent at The Washington Post. But skepticism is certainly warranted — both that Boehner is serious, and that he would even follow through. At the same time, "the mere fact that Boehner sees a need to telegraph nominal flexibility to begin with could be a key tell," Sargent adds. Wall Street is getting very nervous, and "Boehner seems to see a need to underscore, again, that he will not allow default under any circumstances, and that keeping alive any doubts about this is politically untenable." This tea-leaf reading of Boehner's intentions is part of a larger issue with the shutdown and debt ceiling crises. Nobody seems to know where the lines are. We're all just following bread crumbs through a dark forest. Obama and the Democrats have a unified message, and they seem willing to stick to their guns about not negotiating before the debt ceiling is raised. Republicans are a mystery.

**Obama staying strong through non negotiation and looking credible is key**

**Milbank 9-27**

Dana is a Washington Post Columnist, “Obama Should Pivot to Dubya’s Playbook,” <http://www.washingtonpost.com/opinions/dana-milbank-obama-should-try-pivoting-to-george-bushs-playbook/2013/09/27/c72469f0-278a-11e3-ad0d-b7c8d2a594b9_story.html>

If President Obama can stick to his guns, he will win his October standoff with Republicans.¶ That’s an awfully big “if.”¶ Obama gave a rousing speech in suburban Washington, in defense of Obamacare, on the eve of its implementation. “We’re now only five days away from finishing the job,” he told the crowd.¶ But before he had even left the room, his administration let slip that it was delaying by a month the sign-up for the health-care exchanges for small businesses. It wasn’t a huge deal, but it was enough to trample on the message the president had just delivered.¶ Throughout his presidency, Obama has had great difficulty delivering a consistent message. Supporters plead for him to take a position — any position — and stick with it. His shifting policy on confronting Syria was the most prominent of his vacillations, but his allies have seen a similar approach to the Guantanamo Bay prison, counterterrorism and climate change. Even on issues such as gun control and immigration where his views have been consistent, Obama has been inconsistent in promoting his message. Allies are reluctant to take risky stands, because they fear that Obama will change his mind and leave them standing alone.¶ Now come the budget showdowns, which could define the rest of his presidency. Republican leaders are trying to shift the party’s emphasis from the fight over a government shutdown to the fight over the debt-limit increase, where they have more support. A new Bloomberg poll found that Americans, by a 2-to-1 margin, disagree with Obama’s view that Congress should raise the debt limit without any conditions.¶ But Obama has a path to victory. That poll also found that Americans think lawmakers should stop trying to repeal Obamacare. And that was before House Republicans dramatically overplayed their hand by suggesting that they’ll allow the nation to default if Obama doesn’t agree to their laundry list of demands, including suspending Obamacare, repealing banking reforms, building a new oil pipeline, easing environmental regulations, limiting malpractice lawsuits and restricting access to Medicare.¶ To beat the Republicans, Obama might follow the example of a Republican, George W. Bush. Whatever you think of what he did, he knew how to get it done: by simplifying his message and repeating it, ad nauseam, until he got the result he was after.¶ Obama instead tends to give a speech and move along to the next topic. This is why he is forever making “pivots” back to the economy, or to health care. But the way to pressure Congress is to be President One Note.¶ In the debt-limit fight, Obama already has his note: He will not negotiate over the full faith and credit of the United States. That’s as good a theme as any; it matters less what the message is than that he delivers it consistently.¶ The idea, White House officials explained to me, is to avoid getting into a back-and-forth over taxes, spending and entitlement programs. “We’re right on the merits, but I don’t think we want to argue on the merits,” one said. “Our argument is not that our argument is better than theirs; it’s that theirs is stupid.”¶ This is a clean message: Republicans are threatening to tank the economy — through a shutdown or, more likely, through a default on the debt — and Obama isn’t going to negotiate with these hostage-takers.¶ Happily for Obama, Republicans are helping him to make the case by being publicly belligerent. After this week’s 21-hour speech on the Senate floor by Sen. Ted Cruz (R-Tex.), the publicity-seeking Texan and Sen. Mike Lee (R-Utah) objected to a bipartisan request to move a vote from Friday to Thursday to give House Republicans more time to craft legislation avoiding a shutdown. On the Senate floor, Sen. Bob Corker (R-Tenn.) accused them of objecting because they had sent out e-mails encouraging their supporters to tune in to the vote on Friday. The Post’s Ed O’Keefe caught Cruz “appearing to snicker” as his colleague spoke — more smug teenager than legislator.¶ Even if his opponents are making things easier for him, **Obama still needs to stick to his message.** As in Syria, the president has drawn a “red line” by saying he won’t negotiate with those who would put the United States into default. If **he retreats, he will embolden his opponents and demoralize his supporters.**

**Reducing Obama’s war powers causes a crippling loss of credibility- causes republicans to put up a more concerted fight on the debt ceiling which would wreck the markets**

**Seeking Alpha 9-10**

[“Syria Could Upend Debt Ceiling Fight” http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight]

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. **To forbid the Commander-in-Chief of ~~his~~ primary power renders him all but impotent**. At this point, a rebuff from the House is a 67%-75% probability. I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four. **While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there**, which would be limited in nature. Rather, **investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over** spending and **the debt ceiling**. Currently, **the government** loses spending authority on September 30 while it **hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe**. Failure in the Syrian vote could change this**. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.**  **Until now, consensus has been that the two sides would compromise** to fund the government at sequester levels while **passing a $1 trillion stand-alone debt ceiling increase**. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. **With the President rendered hapless** on Syria, **they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight**. **I currently believe the two sides will** pass a short-term continuing resolution to keep the government open, and then the GOP will **wage a massive fight over the debt ceiling**. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. **In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken**. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. **Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.** **As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.**  Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time. Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade. I would also like to address the potential that Congress does not vote down the Syrian resolution. First, **news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree** (Syria said it was willing to consider), **the U.S. would not have to strike, canceling the congressional vote.** The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks. The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, **Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous.** As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama. Remember, **in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations** unless another last minute deal can be struck.

**Failure to raise the debt ceiling ensures collapse of the global economy, U.S. economic leadership, and free trade**

**Davidson 9/10**

Adam, co-founder of NPR’s “Planet Money,” a podcast and blog, “Our Debt to Society”, <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&_r=0>, CMR

**If the debt ceiling isn’t lifted** again this fall, some **serious financial decisions will have to be made**. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually **the big-ticket items**, like **Social Security and Medicare, will have to be cut**. At some point, **the government won’t be able to pay interest on its bonds and will enter** what’s known as **sovereign default**, the ultimate **national financial disaster** achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). **In the case of the U**nited **S**tates, though, **it won’t be** an **isolated** national crisis. **If the American government can’t stand behind the dollar, the world’s benchmark currency**, then **the global financial system will** very likely **enter a new era in which there is much less trade and** much less **economic growth. It would be**, by most accounts, **the largest self-imposed financial disaster in history**.¶ **Nearly everyone** involved **predicts** that **someone will blink before this disaster occurs. Yet a small number of House Republicans** (one political analyst told me it’s no more than 20) **appear willing to see what happens if the debt ceiling isn’t raised** — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, **the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds**. **The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing** — **which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years**.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that **while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable**. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, **the U.S. would lose its unique role in the global economy**.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, **the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters**. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, **the entire global economy becomes riskier and costlier**.

#### Nuclear war.

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? Survival, 53:2, 117 – 130

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving *the use of nuclear weapons*. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism.

**Nuclear war**

**Khalilzad ’11** Zalmay was the United States ambassador to Afghanistan, Iraq, and the United Nations during the presidency of George W. Bush and the director of policy planning at the Defense Department from 1990 to 1992, “ The Economy and National Security”, 2-8-11, <http://www.nationalreview.com/articles/print/259024>, CMR

Today, **economic** and fiscal **trends pose the most severe** long-term **threat to the U**nited **S**tates’ **position as global leader**. While the United States suffers from fiscal imbalances and low economic growth, the economies of rival powers are developing rapidly. The **continuation of** these two **trends could lead to a shift from American primacy toward a multi-polar global system, leading in turn to increased geopolitical rivalry and** even **war among** the **great powers**. The current recession is the result of a deep financial crisis, not a mere fluctuation in the business cycle. Recovery is likely to be protracted. The crisis was preceded by the buildup over two decades of enormous amounts of debt throughout the U.S. economy — ultimately totaling almost 350 percent of GDP — and the development of credit-fueled asset bubbles, particularly in the housing sector. When the bubbles burst, huge amounts of wealth were destroyed, and unemployment rose to over 10 percent. The decline of tax revenues and massive countercyclical spending put the U.S. government on an unsustainable fiscal path. Publicly held national debt rose from 38 to over 60 percent of GDP in three years. Without faster economic growth and actions to reduce deficits, publicly held national debt is projected to reach dangerous proportions. If interest rates were to rise significantly, annual interest payments — which already are larger than the defense budget — would crowd out other spending or require substantial tax increases that would undercut economic growth. Even worse, if unanticipated events trigger what economists call a “sudden stop” in credit markets for U.S. debt, **the U**nited **S**tates **would be unable to roll over its outstanding obligations, precipitating a sovereign-debt crisis that would almost certainly compel a radical retrenchment of the U**nited **S**tates **internationally**. **Such scenarios would reshape the international order**. It was the **economic devastation** of Britain and France **during World War II**, as well as the rise of other powers, that **led** both **countries to relinquish their empires**. In the late 1960s, British leaders concluded that they lacked the economic capacity to maintain a presence “east of Suez.” Soviet economic weakness, which crystallized under Gorbachev, contributed to their decisions to withdraw from Afghanistan, abandon Communist regimes in Eastern Europe, and allow the Soviet Union to fragment. If the U.S. debt problem goes critical, **the U**nited **S**tates **would be compelled to retrench, reducing its military spending and shed**ding **international commitments**. We face this domestic challenge while other major powers are experiencing rapid economic growth. Even though **countries** such as China, India, and Brazil have profound political, social, demographic, and economic problems, their **economies are growing faster than ours, and this could alter the global distribution of power.** **These trends could** in the long term **produce a multi-polar world**. **If U.S. policymakers fail to act** and other powers continue to grow, **it is not a question of whether but when a new international order will emerge**. **The closing of the gap** between the United States and its rivals **could intensify geopolitical competition among major powers, increase incentives for local powers to play major powers against one another, and undercut our will to preclude or respond to international crises because of the higher risk of escalation.** **The stakes are high**. In modern history, **the longest period of peace among the great powers has been the era of U.S. leadership**. By contrast**, multi-polar systems have been unstable, with their competitive dynamics resulting in frequent crises and major wars among the great powers**. **Failures of multi-polar international systems produced both world wars**. **American retrenchment could have devastating consequences.** **Without an American security blanket, regional powers could rearm in an attempt to balance against emerging threats**. Under this scenario, **there would be a heightened possibility of arms races, miscalc**ulation, **or other crises spiraling into all-out conflict.** Alternatively, **in seeking to accommodate the stronger powers, weaker powers may shift their geopolitical posture away from the U**nited **S**tates. Either way, **hostile states would be emboldened to make aggressive moves in their regions**.

## 1NC—CP 1

#### The United States executive branch should publish and enforce an executive order to require the executive branch to not employ military force against al-Qaeda, the Taliban, or those nations, organizations, or persons who enjoy close and well-established collaboration with al-Qaeda or the Taliban without Congressional authorization.

#### CP prevents Presidential overreach without sacrificing authority

Lederman 9/1/2013, law professor at Georgetown, former Deputy Assistant Attorney General, (Marty, “Syria Insta-Symposium: Marty Lederman Part I–The Constitution, the Charter, and Their Intersection,” http://opiniojuris.org/2013/09/01/syria-insta-symposium-marty-lederman-part-constitution-charter-intersection/)

In the past two generations, there have been three principal schools of thought on the question of the President’s power to initiate the use of force unilaterally, i.e., without congressional authorization: a. The traditional view, perhaps best articulated in Chapter One of John Hart Ely’s War and Responsibility, is that except in a small category of cases where the President does not have time to wait for Congress before acting to interdict an attack on the United States, the President must always obtain ex ante congressional authorization, for any use of military force abroad. That view has numerous adherents, and a rich historical pedigree. But whatever its merits, it has not carried the day for many decades in terms of U.S. practice. b. At the other extreme is the view articulated at pages 7-9 of the October 2003 OLC opinion on war in Iraq, signed by Jay Bybee (which was based upon earlier memos written by his Deputy, John Yoo). The Bybee/Yoo position is that there are virtually no limits whatsoever: The President can take the Nation into full-fledged, extended war without congressional approval, as President Truman did in Korea, as long as he does so in order to advance the “national security interests of the United States.” With the possible exception of Korea itself, this theory has never reflected U.S. practice. (Indeed, even before that OLC opinion was issued, President Bush sought and obtained congressional authorization for the war in Iraq.) Notably, it was even rejected by William Rehnquist when he was head of OLC in 1970 (see the opinion beginning at page 321 here). c. Between these two categorical views is what I like to call the Clinton/Obama “third way”—a theory that has in effect governed, or at least described, U.S. practice for the past several decades. It is best articulated in Walter Dellinger’s OLC opinions on Haiti and Bosnia, and in Caroline Krass’s 2011 OLC opinion on Libya. The gist of this middle-ground view (this is my characterization of it) is that the President can act unilaterally if two conditions are met: (i) the use of force must serve significant national interests that have historically supported such unilateral actions—of which self-defense and protection of U.S. nationals have been the most commonly invoked; and (ii) the operation cannot be anticipated to be “sufficiently extensive in ‘nature, scope, and duration’ to constitute a ‘war’ requiring prior specific congressional approval under the Declaration of War Clause,” a standard that generally will be satisfied “only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period” (quoting from the Libya opinion). Largely for reasons explained by my colleague and Dean, Bill Treanor, I am partial to this “third way,” at least in contrast to the two more categorical views described above. (I do not subscribe to every detail of the Dellinger and Krass opinions—in particular, I’m wary of resort to the interest in “regional stability,” which has never been used as a stand-alone justification for unilateral executive action—but I concur in the broad outlines sketched out above.) Regardless of whether Dean Treanor and I—and Presidents Clinton and Obama—are right or wrong about that, however, what’s important for present purposes is that U.S. practice after World War II (with the possible exception of Korea and Kosovo) reflects, and is consistent with, this “third way” view: When a prolonged campaign has been anticipated, with great risk to U.S. blood and treasure, congressional authorization has been necessary—and has, in fact been secured (think Vietnam, both Gulf Wars, and the conflict with al Qaeda). Otherwise, the President has considered himself free to act unilaterally, in support of important interests that have historically justified such unilateral action—subject, however, to any statutory limitations, including the time limits imposed by the War Powers Resolution. See, e.g., Libya (twice, 1986 and 2011), Panama (1989), Somalia (1992), Haiti (twice, 1994 and 2004), and Bosnia (1995). Assuming this “third way” view is correct—or, in any event, that it establishes the relevant historical baseline against which to measure the case of Syria—Peter Spiro makes a valid point about the second of the two criteria. As he puts it, “[a]t no point in the last half century . . . has a president requested advance congressional authorization for anything less than the full-scale use of force.” But that does not mean that the President’s turn to Congress yesterday is a “watershed,” for Peter overlooks the important first condition. All of the examples of unilateral presidential use of force since 1986 that he implicitly invokes (with the possible exception of Kosovo, discussed below) have been in the service of significant national interests that have historically supported such unilateral actions—such as self-defense, protection of U.S. nationals, and/or support of U.N. peacekeeping or other Security Council-approved endeavors and mandates (e.g., Bosnia and Libya). The Syria operation, however, would have had no significant precedent in unilateral executive practice; it would not have been been supported by one of those historically sufficient national interests. That’s not to say that that operation would not be in the service of a very important national interest. For almost a century the U.S. has worked assiduously, with many other nations, to eliminate the scourge of chemical weapons. If Syria’s use of such weapons were to remain unaddressed, that might seriously compromise the international community’s hard-won success in establishing the norm that such weapons are categorically forbidden, and should not even be contemplated as instruments of war. As Max Fisher has written, “it’s about every war that comes after, about what kind of warfare the world is willing to allow, about preserving the small but crucial gains we’ve made over the last century in constraining warfare in its most terrible forms.” Preventing that degradation of the strong international norm against use of chemical weapons is, indeed, an important national (and international) interest of the first order. (To be clear: I am not remotely qualified to opine on whether and to what extent the contemplated action would advance that interest—my point is only that the interest is undoubtedly an important one.) And perhaps that should be enough to justify discrete, unilateral presidential action short of “war in the constitutional sense.” But if so, it would nevertheless be an unprecedented basis for unilateral executive action, and it would open up a whole new category of uses of force that Presidents might order without congressional approval, even where such actions could have profound, longstanding consequences: Most obviously, think, for example, of possible strikes on Iran in order to degrade its nuclear capabilities. Is Peter so sure that that’s the sort of thing that a President should be able to do without obtaining congressional approval? At a minimum, it’s a profound, and heretofore unresolved, question, one that any President should be wary of raising. But there’s yet another reason why unilateral action in Syria would have been especially troubling—a reason that hasn’t received the attention it warrants in recent days. As I discuss in my next post, I agree with the majority of OJ commentators that the Syrian operation would violate Article 2(4) of the U.N. Charter. Indeed, it’s not really a close question. But this is not merely a point about international law. The Charter is a treaty of the United States. It is therefore the “supreme Law” of the land under Article VI of the Constitution, and the President has a constitutional obligation (under Article II) to take care that it is faithfully executed. Unless and until Congress passes a “later in time” statute, under what authority can the President deliberately put the U.S. in breach of the Charter? That is to say: Whatever one’s views might be on the scope of the President’s authority to unilaterally use force abroad—whether you subscribe to the traditional view, the Bybee/Yoo view, or the Clinton/Obama “third way” (or any variant in between)—what is the possible justification for a unilateral presidential decision to violate a treaty that is binding as a matter of domestic law? This is, I think, the most troubling thing about the 1999 Kosovo precedent. The Clinton Administration virtually conceded that the operation was in breach of the Charter. Of course, as a matter of domestic law, Congress can pass a statute authorizing violation of the Nation’s treaty obligation. And OLC concluded that Congress effectively authorized the Kosovo operation eight weeks after it began. But why did President Clinton have the authority, without congressional authorization, to order the operation, and to breach Article 2(4), during those first eight weeks? The notion that the President may unilaterally cause the U.S. to breach a treaty raises deep and unresolved questions of constitutional law: Just as Presidents Obama and Clinton were correct to assume that their unilateral uses of force (in Kosovo and Libya, respectively) were subject to the constraints of the War Powers Resolution, so, too, should the President act within the constraints of binding treaty obligations. The Clinton Administration never did address this problem in connection with Kosovo. (I should note that in 1989, OLC reasoned that because Article 2(4) of the Charter is non-self-executing, in the sense that it does not establish a rule for court adjudication, it is “not legally binding on the political branches,” and thus “as a matter of domestic law, the Executive has the power to authorize actions inconsistent with Article 2(4) of the U.N. Charter.” 13 Op. O.L.C. 163, 179. In my view, this understanding of the effect of a “non-self-executing” treaty is importantly mistaken—but that’s a much broader topic, for another day. I am not aware of any indication that the Clinton Administration adopted this position.) For these reasons, I think that President Obama’s decision to ask Congress for authorization for the use of force in Syria is to be commended, and welcomed. Moreover, I agree with Jack Goldsmith that this decision will not result in any “surrender” of existing executive authority: When in the future the two “third way” criteria for unilateral action articulated in the Haiti, Bosnia and Libya OLC opinions are satisfied, and where the use of force does not violate the Charter, Presidents will certainly continue to assert the power to act unilaterally, subject to statutory and international law constraints. But if and when a President wishes to act for a reason that has not previously been the basis for unilateral action (such as to degrade another nation’s ability to use certain weapons), and/or in a manner that violates a U.S. treaty obligation, past practice will support obtaining congressional authorization, even as the question of the President’s unilateral authority in such circumstances remains untested and unresolved.

## 1NC-DA 2

#### Executive war powers authority high now

Eric Posner 9/3/12, Professor at the University of Chicago Law School, is a co-author of The Executive Unbound: After the Madisonian Republic and Climate Change Justice. http://www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever. It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.” **Thus**, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him. The president’s announcement should be understood as a political move, not a legal one**.** His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.) People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way. This approach also empowers the president relative to Congress by giving him the ability to embarrass members of Congress when he wants to. Just ask Hillary Clinton, whose vote in favor of the 2003 Iraq War damaged her chances against Barack Obama in 2008, and the Democratic senators who could not enter the 1992 campaign for the presidency because their votes against the 1991 Iraq War rendered them unelectable. The best thing for individual members of Congress is to be able to carp on the sidelines—to complain about not being consulted and to blame the president if the war goes badly. That is why David Axelrod said, “Congress is now the dog that caught the car.” This is hardball politics, not a rediscovery of legal values. If Obama gains by spreading blame among Congress, why didn’t the president ask Congress for military authorization earlier, before he threatened Syria with a missile strike? The answer appears to be that the president expected international support for the invasion and believed that if other countries supported him, he would not need support in Congress. Only when the British poodle rediscovered its inner lion did he shift gears. Again, this has nothing to do with the law; it’s a matter of political prudence.

#### Aff kills flexibility to deal with asymmetric threats that threaten survival—defense assumes outdate forms of warfare

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IV. 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. n122 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. n123 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. n124 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 modern trend toward a new phase of warfighting, the authors argued that: [\*395] 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). n125 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 III, 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. n126 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. n127 As seen in Part III, supra, the rise of the modern 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 [\*396] 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 modern state] does not have a future in front of it." n128 The challenge in formulating a new theory of war powers for fourth-generational 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. n129 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." n130 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." n131 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. [\*397] 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. n132 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. n133 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. n134 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." n135 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. n136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist." n137 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." n138 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. n139 [\*398] 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. n140 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. n141 Al-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." n142 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." n143 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 [\*399] consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. n144 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." n145 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." n146 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision-making. [\*400] 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 fourth-generational opponents. E. Congressional Incapacity against Non-State Actors As discussed in Part III, supra, the power of Congress to declare war operates only vis-a-vis other nation-states, and it does not apply to transnational organizations, the primary traits of which are that "none is contained completely within a recognized nation's borders, none has official members that must report back to a government, and none owes loyalty to any nation--and sometimes very little loyalty to its own organization." n147 Congress's ability to control whether to plunge the United States into war or to sue for peace makes perfect sense when the adversary is another nation-state, which has its own policy goals and is merely using the possibility of war as one means of attaining that policy end. In contrast, for Congress to possess the ability to declare war (and to withhold such a declaration) when the adversary is a transnational organization that has sworn to destroy the United States makes no sense at all. n148 The question then naturally becomes, what may Congress constitutionally do in the fourth generation of warfare? To say that the President can unilaterally commit American forces to action in response to terrorist attacks or in preemption of terrorist threats is not to say that Congress has no role to play in such conflicts. Congress retains the power to "define and punish . . . offences against [\*401] the law of nations," n149 to "make rules concerning captures on land and water," n150 to "make rules for the government and regulation" of the armed forces, including those that participate in military action against fourth-generational opponents. n151 Thus, while Congress may regulate the treatment of detainees in the GWOT pursuant to the aforementioned Article I powers, and it may cut off funding via the spending power as a post hoc matter, it may not prohibit the President from sending armed forces into combat against non-state actors ex ante. Thus, the President need not have waited for Congress to enact the Authorization for Use of Military Force (AUMF) on September 18, 2001 before acting military to combat the terrorists responsible for the September 11 attacks. Furthermore, insofar as the AUMF limits the President's action to those "nations, organizations, or persons" having a specific connection to the September 11 attacks, n152 it is unconstitutional except with respect to nation-states. In reviewing the legislative history of the AUMF, Professors Curtis Bradley and Jack Goldsmith write of how the White House initially sought broad authority to "deter and preempt any future acts of terrorism or aggression against the United States" without regard to any connection they may had to September 11. n153 Congress declined to do so, and instead chose to prescribe a September 11 nexus limitation on the President's ability to use force. n154 As discussed in Part III, supra, Congress's decision to include this September 11 nexus requirement is consistent with the original understanding of the Declare War Clause only with respect to the President's ability to target nation-states, but, in light of the completely unique nature of the conflict against international terrorist organizations, Congress has no power to enact this nexus requirement to control the President's actions with regard to non-state actors. CONCLUSION While the advent of fourth-generational warfare has dramatically altered the international order, which was dominated by the Westphalian system of nation-states for over three hundred years, those nation-states have not disappeared. Indeed, it is vital to note that the nation-state is not yet a relic of the past, even as existing nation-states continue to struggle with terrorists, insurgents, and freedom fighters. Thus, a new understanding of Presidential war power, based upon the realities of fourth-generational warfare, cannot replace, but rather must co-exist with the current system of constitutional decision-making that constrains military action against other nation-states. Congress's power to declare war, and to choose not to declare war, is absolute with respect to other [\*402] nation-states. In military conflicts against nation-states, if there is an absence of a congressional declaration of war or authorization of the use of force, the President can only act defensively to repel attacks. The Framers intended the slow, deliberative process by which Congress makes its decisions to be a check against executive aggression and aggrandizement. Therefore, any Presidential claim of a preclusive war power with respect to other nation-states would be inconsistent with the Constitution. On the other hand, the slow-moving, deliberative Congress has no role to play in authorizing military action against non-state actors in the fourth generation of warfare. The President must have the ability to react quickly in conducting offensive military action against these transnational enemies, both in response to terrorist attacks that have already occurred and to prevent imminent attacks. Congress's powers over the initiation of war or the seeking of peace have no role in this civilizational conflict against extremist terrorists who will not rest until they destroy the United States and who have made such intentions known. In light of the fundamental difference in the nature of the threats posed, the nature of the adversaries, and the different strategies and tactics necessary to combat them, these parallel constitutional decision-making processes in the area of war--one conforming to the Framers' conception of traditional Westphalian warfare against nation-states, and the other adapting to the realities of asymmetric warfare waged by non-state actors--are both necessary to ensure the survival and prosperity of the United States in the twenty-first century and beyond.

## 1NC—CP 2

#### The United States Federal Government should limit the 2001 Authorization of Use of Military Force to al-Qaeda Central, the Taliban, or those nations, organizations, or persons who provide tactical or logistical support to al-Qaeda Central or the Taliban.

### 1NC—WOT Advantage

#### Plan wins us battles but not the war

Zimmerman 9/18/13. (Katherine L., Senior analyst and BA with distinction in Political Science from Yale.“AQAP’s Role in the Al Qaeda Network.” American Enterprise Institute / Statement before the House Committee on Homeland Security Subcomittee on Counterterrorism and Intelligence On “Understanding the Threat to the Homeland from AQAP” <http://www.criticalthreats.org/sites/default/files/pdf_upload/analysis/Zimmerman_AQAPs_Role_in_the_al_Qaeda_Network_September_2013.pdf>)

The United States continues to face a threat from the al Qaeda network twelve years after declaring war against it. America’s failure to understand the complexities of the terrorist network as it has evolved over the years has led only to tactical successes on the battlefield. The strategy to disrupt the al Qaeda network by killing senior leadership in a “core group” is based on a faulty understanding that overemphasizes that group’s importance and the current intentions of affiliates to attack the United States. This strategy has been ineffective in dismantling the network overall. Al Qaeda today bears little resemblance to the network in 2001, yet America’s strategy to counter it remains largely unchanged. The al Qaeda network has moved away from a centrally organized network over the years. Al Qaeda’s strength and resilience now lies in the latticed interconnections between regional al Qaeda groups, as well as in the ties between those groups and the center. The most significant inflection point occurred in 2009 when al Qaeda’s Yemen-based affiliate, al Qaeda in the Arabian Peninsula (AQAP), established a new model for the role of groups in the al Qaeda network. AQAP focused its efforts on the far war against the United States and began to foster relationships with other groups. The Arab Spring and Osama bin Laden’s death in 2011 served as a catalyst for change in the network: other affiliates, too, adapted to AQAP’s model and cultivated inter-group connections spanning the region. These connections facilitate broader coordination and cooperation within the al Qaeda network, and have increased its overall resiliency. Targeting individuals or a specific group within the al Qaeda network will not be effective alone. Such a strategy has allowed al Qaeda’s affiliates in Iraq, Syria, and West Africa to expand virtually unchecked and has ignored the growth of associated groups across North Africa, especially in Libya. The al Qaeda network is global and operates on a global level. Many al Qaeda groups operate solely on the local level, but they strengthen the broader network. The [U.S.] United States, therefore, needs a comprehensive global strategy to counter al Qaeda that is tailored down to the local level. Case Study: Al Qaeda in the Arabian Peninsula The most direct threat to the U.S. homeland today emanates from AQAP, which has attempted to attack the United States homeland at least three times since its establishment in January 2009. The affiliate is also behind the threat stream that prompted the unprecedented closure of over twenty American diplomatic posts across the Middle East and North Africa. AQAP’s prominence in the al Qaeda network should not be interpreted to mean that AQAP has risen to replace the core group in Pakistan or that it is directing the network in some way. It must be interpreted within the broader context of the al Qaeda network. AQAP is an extremely capable terrorist group that is a member of a network of other groups all operating in similar manners. Its prominence is a reflection of its capabilities and its prioritization of conducting attacks against the U.S., not the subordination of other groups to AQAP.

#### Expanding war to affiliates gives a broad mandate for drone strikes that cause blowback.

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Fourth, were a particular group to pose the type of significant and strategic threat that the criminal law, coupled with Article II authorities, could not adequately address and that triggered the laws of war (for example, if the United States were ever to face a threat from a splinter terrorist group approaching that which al Qaeda pos4ed in September 2001), neither Congress nor the Executive would be remotely powerless. Instead, just as it did after 9/11, Congress could always pass a new AUMF tied specifically to the threat posed by that group—and, where necessary, provide the long-term detention authority for enemy forces in armed conflict. CGWW nonetheless reject this approach and instead advocate for what amounts to an open-ended delegation of the authorization of military force to the President: “Congress sets forth general statutory criteria for presidential uses of force against new terrorist threats but requires the executive branch, through a robust administrative process, to identify particular groups that are covered by that authorization of force.” Modeled on the existing process for State Department administrative designation of Foreign Terrorist Organizations (FTOs), the CGWW proposal is for Congress to enact a new blanket framework statute authorizing the use of military force against as-yet-undetermined future terrorist organizations, and to delegate to the Executive Branch the authority to designate those organizations against which such force may be used if and when the time comes. At its core, CGWW are proposing a scenario wherein members of an expanding number of terrorist groups can, as a matter of law, be targeted as a matter of first resort and subjected to indefinite detention without charge, based solely on an (effectively unreviewable) administrative determination by the Executive Branch. To their credit, CGWW suggest limiting the categories of groups and individuals that can be targeted, adding new accountability mechanisms, and including sunset provisions. But if recent experience is any indication (see, e.g., the FISA Amendments Act), sunsets have hardly prompted Congress to revisit or meaningfully revise the underlying counterterrorism authority when it’s time to reauthorize the program. And accountability measures provide little reassurance if the category of permitted uses of military force (including subjecting individuals to detention without charge) is excessively broad; providing transparency for bad policies does not of itself make them good policies. Finally, if the targeting limits they propose were adopted (i.e., tying the criteria to international self-defense [CGWW at 10]), the effect would be to authorize little more than that which is currently available under Article II.

#### Specially, Yemen strikes are driving AQAP recruitment.

Spencer Ackerman 8/12/13, National security editor for Guardian, http://www.theguardian.com/world/2013/aug/12/yemen-drone-strikes-us-policy

If the barrage of US drone strikes over the last week weakened al-Qaida's Yemen affiliate, the terrorist organization that has captured Washington's attention isn't acting like it. Not only is it vowing another attack, it has prompted the US to keep its Yemen embassy closed while reopening all the others – implicitly highlighting the weakness of the US policy of launching drone strikes first and asking questions later. Intelligence chatter indicating an imminent attack by al-Qaida in the Arabian peninsula (Aqap) prompted two reactions by Washington. The first was to order a dramatic, temporary shutdown at embassies and consulates throughout the Middle East and Africa. The second was to order a surge in drone strikes in Yemen. A Saturday strike marked the ninth such attack in two weeks. At least 38 suspected "militants" are reported dead. Throughout 2013, the US has launched 21 airstrikes in Yemen, the vast majority from drones; displacing Pakistan as the epicenter of the covert air war, which has seen 18 strikes thus far, according to statistics compiled by the Long War Journal, which tracks the drones closely. Should that trend hold, it would mean there would be more annual US drone strikes in Yemen than in Pakistan, the home of al-Qaida's central leadership, for the first time in the entire post-9/11 era. The steady rise in drone attacks strikes some as an ominous sign about America's true capabilities in Yemen four years after identifying Aqap as a major terrorist threat. "The US doesn't seem to have good human intelligence [in Yemen]. It's essentially bombing and hoping, which is neither sustainable nor wise," said Gregory Johnsen, author of The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia. "It doesn't seem to have an impact on al-Qaida in the Arabian peninsula." The strikes, conducted under parallel programs run by the CIA and the military's Joint Special Operations Command, are significant not only for their intensity and timing. A US official acknowledged to the New York Times that they are no longer targeting simply the top tier of leadership in Aqap – an expansion that may be hard to reconcile with President Obama's May pledge to rein in the drone campaign. "Before, we couldn't necessarily go after a driver for the organization; it'd have to be an operations director," an anonymous official told the Times. "Now that driver becomes fair game because he's providing direct support to the plot." But while Obama indicated he would restrict the drone campaign during a May 23 speech at the National Defense University, his criteria for using lethal force left the CIA and the military with significant leeway. He did not pledge to only kill senior leaders of terrorist organizations – although his reference to "highly skilled al-Qaida commanders, trainers, bomb makers and operatives" may have left that impression. A White House factsheet issued after the speech referred to killing "a senior operational leader of a terrorist organization or the forces that organization is using or intends to use to conduct terrorist attacks" as long as the strike is lawful. Either way, expanding the pool of eligible targets for strikes is rarely a sign that the power launching them believes itself to be winning. Yet such expansion has been a feature of the drone campaigns in Yemen and Pakistan before it: intelligence and military officials have succeeded in both countries to launch strikes against suspected militants without even knowing their names, something known by the shorthand "signature strikes." Any individual strike might perhaps be sound; or have a tactical effect on Aqap. But the organization hardly sounds like it's under stress. On Monday, Aqap's leader, Nasir al-Wuhayshi, vowed in an unusual letter to free Aqap prisoners in Yemen. "Your brothers are about to bring down the walls and thrones of evil," Wuhayshi said in a rare public communication. Not only did Wuhayshi himself break out of a Yemeni jail in 2006, but several recent prison breaks around the Middle East and south Asia have sparked fears of resurgent al-Qaida affiliates, particularly when compared to weak governments in their host countries. Wuhayshi's message came a day after gunmen ambushed and killed five Yemeni soldiers guarding an oil and gas installation in the country's south. Aqap is suspected of involvement – just days after Yemen boasted of disrupting a major Aqap plot; and despite the drone barrage. The US State Department, meanwhile, has reopened all the diplomatic facilities it abruptly shuttered last week in response to fears of an Aqap attack. The exception is in Yemen, where the Sana'a embassy remains closed. State Department representatives did not respond to a request for comment. The human consequences of the interlocking wars in Yemen – Aqap's war against the Yemeni government; the Yemeni government's war to reestablish its control over its population; the US war against Aqap and its support of the Yemeni government– are profound. While it is unknown exactly how many people have died in US drone strikes, cruise missile strikes and raids, several hundred is a consensus range. Then there is the psychological effect. On July 31, a Yemeni man named Faisal bin Ali Jabar wrote to Yemeni president Abdo Rabu Mansour Hadi and Barack Obama to seek answers about the deaths of his brother-in-law and nephew in an August 2012 drone strike. "Our family are not your enemy. In fact, the people you killed had strongly and publicly opposed al-Qaida. Salem was an imam. The Friday before his death, he gave a guest sermon in the Khashamir mosque denouncing al-Qaida's hateful ideology. It was not the first of these sermons, but regrettably, it was his last," Jabar wrote. Earlier this year, a US Senate panel heard for the first time from a Yemeni, activist and journalist Farea al-Muslimi, who sought to explain how deeply drones had affected average Yemenis, even those who never lost anyone in a strike. Muslimi testified that parents now scare their children into behaving by threatening to send a drone after them. He warned that the drone strikes were instilling "psychological fear and terror." Muslimi spent last week tweeting about surveillance planes loitering overhead of his home in Yemen to underscore the fears ordinary Yemenis have during the current emergency. He vented about the way presumption given in the media to the US that anyone killed by a drone was a member of Aqap. "Th # of times media says "suspected militants n #Yemen" makes me thnk All living n yemen, including foreign diplomats, r suspected militants," Muslimi tweeted Sunday. "The US is running to drones every time its counter-terrorism efforts fail," Muslimi wrote in Sunday's Independent. "On each occasion the public rage against al-Qaida in the Arabian peninsula [AQAP] grows and its image is tarnished, and the US – via drone strikes – restores it again. In its recent actions, the US has become al-Qaida's public relations officer." As the US keeps the Sana'a embassy closed and drone-fired missiles keep pounding Yemen, experts are wondering when Washington will develop a strategy for Yemen more sophisticated than bombing and providing a measure of foreign aid. "I don't see the US having a strategy or policy. I see it as having an approach – one that's fluctuating, depending on how severe the threat is," Johnsen said. That being: drones strikes. "I think US has two goals in Yemen," Johnsen explains. "One is: it wants to prevent any sort of Aqap attack on the US homeland or US interests in the Middle East. Second: making sure no official Americans die. Those are both very defensive goals. The two primary, goals when you see what US is doing in Yemen – those are things the US wants to avoid."

#### Alternatives solve better and avoid our turns.

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Third, claims to the contrary notwithstanding, law enforcement tools are—and have proven to be—effective in dealing with most terrorist threats. Here, CGWW discount or ignore the ways in which counterterrorism laws and capabilities have evolved over the past decade. Not only is our capacity to track and monitor terrorism suspects significantly greater, but our substantive criminal laws also have evolved to respond to the changing nature of the threat. Material support statutes, for example, which have been interpreted broadly, have covered overseas conduct since October 2001; district courts have recognized a broadened “public safety” exception to Miranda to allow for the limited introduction into evidence of unwarned statements; and an increasing cohort of judges and civilian prosecutors have successfully navigated the handling of classified information. Over the past decade, our Article III courts have successfully prosecuted and convicted hundreds of terrorism defendants, generally with little fanfare or controversy—often leading to sentences of multiple decades or life. Key allies have prosecuted and convicted numerous others. Despite these successes of our Article III courts, it seems that a key—and possibly principal—objective of the CGWW proposal is to provide authority to this and future presidents to detain terrorism suspects without charge. Indeed, as they candidly note in explaining why they believe the President’s existing authorities aren’t sufficient for groups not covered by the AUMF, “It is also not clear whether the president’s Article II authority includes detention powers.” Thus, CGWW appear to believe that long-term, law-of-war detention authority is necessary to deal with the threat posed by emerging terrorists groups who fall outside the AUMF. But they fail to explain why this is needed; how such detentions would not re-trigger the same international approbation and condemnation that has long accompanied the detentions at Guantánamo; where the detainees would be held; or how they would protect against blowback. Moreover, to the extent that their primary concerns stem from the threats in the Sahel and Somalia (see, for example, CGWW at 5), the difficulties posed by trying to capture such suspects apply regardless of whether the goal is law-of-war detention or criminal prosecution.

#### Reducing drones improves civil society—key to economic development and stopping AQAP

Allyson L. Mitchell 12, School of Conflict Analysis and Resolution (S-CAR), George Mason University, http://www.beyondintractability.org/reflection/mitchell-neighbor

The assassination of Anwar al-Awlaki is just one example of a great number of drone attacks that the U.S. has exercised in Yemen. And although it is unlikely to be spoken of by U.S. media outlets, Mr. Awlaki and his circle of subordinates were not the only individuals murdered in the Fall of 2011. Two weeks later, Mr. Awlaki's 16 year old son (a U.S. citizen) and his 17 year old nephew were also killed by a drone attack that was allegedly targeting other AQAP operatives. The two boys were said to have not been the intended targets in the assault and were written off as collateral damage. A recent research study issued by the Bureau of Investigative studies in London found that in Yemen from 2001-2012 there have been between 31-68 attacks resulting in 294-673 deaths; of which 55-105 were civilians, including 24 children.[29] The visual below represents all deaths that have been confirmed; absolute minimum number of casualties.[30] The most deadly U.S. sponsored civilian strike in Yemen occurred on December 17th, 2009 in the southern province of Al-Majala. A U.S. Navy ship launched a Tomahawk cruise missile, intended for known militant Saleh Mohammed al-Anbouri, who had recently been released from prison. Al-Anbouri had told residents that he was preparing to start a new life there and was said to have brought his entire family to the area. He was digging a well with a number of the local men when the missile hit. 41 civilians were killed in the attack, including 22 children ranging from one year old to 17 years. A handful of the women slain were also said to have been pregnant. Additionally, three other civilians' lives were taken after stepping on cluster munitions following the initial blast. This raised the death toll to 44, excluding al-Anbouri and 13 other militants. In the days that followed, the U.S. worked feverishly to cover-up their role in the massacre but Wikileak released cables between General David Petraeus and then-President Saleh confirmed the source of the execution. Yemen's parliament sought answers and established a commission to investigate the slaughter. The commission published its findings on February 7th, 2010 which included the names, ages, relationships, and genders of all 44 civilians killed. The parliament accepted the findings, in full, and called for the government to open a judicial investigation. The same day the Yemeni government is said to have issued a statement apologizing to the survivors, calling the incident a 'mistake' and offering the families monetary compensation for the lives lost and land destroyed.[32] To date, the United States has made no effort to acknowledge its part in the attack, nor express regret for the families that were destroyed. In denial of the aforementioned realities of drone warfare, Chief Counterterrorism Advisor, John Brennan, provided an indication of events to come: "Going forward, we will be mindful that if our nation is threatened, our best offense won't always be deploying large armies abroad but delivering targeted, surgical pressure to the groups that threaten us."[33] Modern day warfare has altered the guidelines of war and changed the way combatants fight; conflicts have been relocated from the classic battlefield location to populated urban centers amongst the daily lives of civilians. This has a tendency to blur the boundaries between civilians and hostiles in a combat environment. That said, the U.S. still has no moral ground to knowingly and purposefully take the lives of the innocent. As Robert Paarlberg, Professor of International Affairs, discovered, "victories that bring resentment will breed resistance, most easily expressed in the form of asymmetric threats against soft targets, including homeland targets".[34] Moreover, by operating drone warfare and murdering civilians, America is creating new enemies that otherwise would not have been a threat. The latest U.S. policy developments raise additional concerns as to the true agenda of the United States. On April 24th, 2012 President Obama approved the use of "signature" attacks following a CIA request to expand their clandestine drone operations in Yemen. Until now, strikes were only sanctioned against known terrorist leaders who appear on the secret targeted kill list and whose locations could be confirmed. This new authority gives the CIA and JSOC (U.S. Joint Special Operations Command) the ability to open fire on targets based exclusively on patterns of behavior; their "signature". The administration's decision has initiated a hot debate in Washington. In particular, "Congressional officials have expressed concern that using signature strikes would raise the likelihood of killing militants who are not involved in plots against the United States, angering Yemeni tribes and potentially creating a new crop of al-Qaeda recruits."[35] This new policy, which has already increased the average number of drone strikes per month, will surely amplify the probability of civilian causalities in future altercations with AQAP. Economic Implications The ongoing civil unrest in Yemen has fractured an already fragile economy. Yemen has relied heavily on its declining oil resources which accounts for roughly 25% of GDP and 70% of total government revenue.[36] In 2006, an economic reform project was set in motion in order to promote direct investment and strengthen non-oil sectors of the economy. This program facilitated the production of liquefied natural gas, which was first exported in 2009. In the past five years, the World Bank and International Monetary Fund have had to suspend disbursements of aid numerous times due to political and economic instability. Yemen has found itself in what economist Paul Collier describes as the Conflict Trap. Collier found that the poorest nations of the world are at the greatest risk of violent civil conflict. In his calculations, once a country partakes in a civil war it experiences 'development in reverse'; meaning the world's poorest are more likely to begin civil wars and those wars further impoverish the people.[37] To substantiate his claim he also studied the middle-income countries of the world and found that they are at almost zero risk of civil war. He argues that the only way out of the Conflict Trap, is through vigorous economic development. Unfortunately, natural resources serve as an important function in development efforts, and Yemen has very few of them. Outside of petroleum, Yemen's strongest resources include fish, rock salt, and marble.[38] During the 2011 unrest in Yemen, strikes on oil pipelines and electrical facilities created severe shortages and electrical outages throughout the nation. To aid, in April 2012, the IMF granted Yemen a $93.75 million interest-free emergency loan to "cushion foreign exchange reserves and maintain macroeconomic stability, while scaling up social and capital expenditures".[39] The Yemeni government has announced it would use these funds to fix the infrastructural issues, create jobs, and reduce poverty. This is a tall order for a nation with 43% of its population under the age of 14 years and 45% of the total population below the poverty line.[40] However if a steady and persistent amount of aid can be delivered without delay, there is hope that Yemen can break the Conflict Trap and reach a state of peace without war. Political Implications As discussed above, Collier provides a clear picture of the benefits of economic development and the economy's role in sustaining peace. International peacebuilding and political development expert, Richard Ponzio takes the idea of conflict prevention one step further by arguing that before economic development can occur, a strong political structure must be in place. During conflict situations, when state institutions fail to provide basic human needs for its people, "power is diffused — and exerted through informal or incoherent means".[41] Extreme mistrust of the Yemeni government has led many Yemenis to join tribes and rebel factions like AQAP in order seek out alternative means for security, food, shelter, and work. Ponzio explains, "Without building trust and cooperation in post conflict societies through effective democratic legal authority, even the most generous provisions of humanitarian or longer-term reconstruction assistance may not lead to sustainable peace."[42] It has been proven that citizens will accept authority if it is deemed legitimate. Therefore structural changes are necessary in order to develop confidence within the community and implement an institutionalized democratic legal authority. Ponzio elaborates: "Besides institutional checks and balances within the formal state structure, democratic authorities can be held accountable through the actions of influential non-state actors, such as the media, civic groups, and the private sector. Such arrangements allow authority to command the respect that is required for effective action by curbing the dangers of excessive corruption or power seeking."[43] Since Abd Rabbuh Mansur Al-Hadi's presidential selection in February 2012, he has been struggling to convince the Yemeni people that transformations are underway. On a positive note, there have been leadership changes within the Yemeni Security Forces as well as the Supreme Judiciary Council. However, with few exceptions, the leadership within the administration remains unchanged. In addition, cities across the country remain divided into zones controlled by a wide range of paramilitary, military, and tribal forces. Efforts to reorganize the zones under a central command have been delayed due to complications. When Mr. Hadi took office he vowed to achieve a number of milestones before the Parliamentary elections which are scheduled for 2014. As part of these objectives, Yemen is seeking to draft a new constitution, reform electoral laws, and create a national dialogue. More critical of present concerns, Hadi declared that a Truth Commission would be created in order to deliver transitional justice to citizens. This commission is evaluating the 2011 protestor attacks and ensuring compensation for victims harmed under Saleh's regime. To date, no investigations have been completed, but many citizens are seeking justice for abuses committed during peaceful protests that killed more than 270 demonstrators in 2011. Unfortunately, this positive progress towards peacebuilding has been masked by a 2012 Yemeni Parliament decision to grant full immunity to Ex-President Saleh. The decision also concedes immunity to those who served with Saleh during his 33-year rule for all political crimes, bar terrorism.[44] This language, which could encompass any major human rights violation committed by representatives on official duty, discounts the integrity of the Truth Commission. President Hadi has failed to take the necessary steps towards executing an institutionalized democratic legal authority in Yemen, triggering a growing lack of confidence towards the new administration. Conclusion: My Neighbor Is a Terrorist So what does it actually mean to live among terrorists? For the 44 civilians killed in Al-Majala, it meant their lives. All in all, for many Yemenis, it signifies living in a constant state of fear. Yemenis fear AQAP and its known allegiances to Al Qaeda's mission. They also fear the Yemeni government, as the shortcomings of the political system have failed them time and time again. And finally, they fear the United States for engaging in sudden and destructive drone strikes that are unknown to the populous until the moment they touch ground. All of these trepidations can be easily morphed into anger which "will only increase the hatred locals have for the United States, and turn residents into al Qa'eda sympathizers."[45]. If the mission of the United States is to rid the world of Al-Qaeda, drone attacks are far from the solution. There are many lessons to be learned from U.S. military policy in Yemen, but the most profound lesson is one of change. "Over the past decade the focus has shifted visibly from restraining violence to legitimizing it"[46] and at what point will it stop? U.S. policy in Yemen is creating nothing more than a perpetual cycle of violence that has a tendency to breed more terrorists than it can exterminate. The bottom line is that the United States should not be meddling in another country's affairs through closed door dealing and secret killing missions. With the United States barred from undermining peacebuilding efforts, the world might bear witness to an entirely new Yemen. Although there is no perfect model for peacebuilding, Collier and Ponzio provide noteworthy guidance on the actions needed for creating political and economic foundations that aid in the stabilization of a state. If achieved, Yemenis may no longer need to look towards terrorist networks, such as AQAP, for support. Confidence in the system and empowerment of the Yemeni people is perhaps the answer to kicking the terrorists out of the neighborhood.

#### No bio threat—empirics and science

Dove 12 [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶ Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶ Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of a cult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed, and had many highly educated members, so this release over the world’s largest city really represented a worst-case scenario.¶ Nobody got sick or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

### 1NC—Heg Advantage

#### No reverse causal link – they have no evidence that the Court would start reviewing war powers or AUMF cases because of the plan.

#### Court will never get involved – deference inevitable.

Entin 12 (Jonathan L. Entin is Associate Dean for Academic Affairs (School of Law), David L. Brennan Professor of Law, and Professor of Political Science, Case Western Reserve University, “War Powers, Foreign Affairs, and the Courts: Some Institutional Considerations,” http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.21.Article.Entin.pdf)

Beyond the limitations of the Supreme Court rulings, the judiciary probably will not contribute very much to the debate. Various procedural and jurisdictional obstacles make it difficult for courts to address the merits of disputes about war powers and foreign affairs. Even if those obstacles can be surmounted, those who decry what they view as presidential excess should note that the judiciary typically has taken a deferential role in reviewing challenges to executive action. A. Standing Because the judicial power of the United States encompasses only cases and controversies,12 neither Congress nor the president could obtain an advisory opinion about war powers or foreign affairs, even if they were so inclined. To satisfy the requirement of standing, an appropriate plaintiff must allege a legally cognizable injury that was caused by the defendant and could be redressed by a suitable judicial remedy.13 Most citizens will lack standing to challenge military actions or foreign policy decisions because they would be asserting a generalized grievance. This was the basis for rejecting a challenge to the constitutionality of the Vietnam War. The plaintiffs in Schlesinger v. Reservists Committee to Stop the War14 claimed that members of Congress who were members of the military reserve were susceptible to undue influence by the executive branch, but the Supreme Court never reached the merits. The Court concluded that the plaintiffs lacked standing because they were asserting “an interest shared by all citizens.” 15 Although most citizens would be foreclosed from suing, perhaps a member or group of members of Congress might have standing. Legislators might try to assert that executive actions infringed their constitutional authority. This possibility seems to have been foreclosed by Raines v. Byrd, 16 which held that individual members of Congress lacked standing to challenge the constitutionality of the Line Item Veto Act.17 The challengers, four Senators and two Representatives,18 could not and did not allege that their votes against the measure had been “completely nullified”; 19 they opposed the bill and “simply lost.” 20 Accordingly, these individual legislators lacked standing.21

#### Court wouldn’t stop the president, escalates interbranch conflicts, and kills legitimacy.

Pushaw 4—Professor of law @ Pepperdine University [Robert J. Pushaw, Jr., “Defending Deference: A Response to Professors Epstein and Wells,” Missouri Law Review, Vol. 69, 2004]

Civil libertarians have urged the Court to exercise the same sort of judicial review over war powers as it does in purely domestic cases—i.e., independently interpreting and applying the law of the Constitution, despite the contrary view of the political branches and regardless of the political repercussions.54 This proposed solution ignores the institutional differences, embedded in the Constitution, that have always led federal judges to review warmaking under special standards. Most obviously, the President can act with a speed, decisiveness, and access to information (often highly confidential) that cannot be matched by Congress, which must garner a majority of hundreds of legislators representing multiple interests.55 Moreover, the judiciary by design acts far more slowly than either political branch. A court must wait for parties to initiate a suit, oversee the litigation process, and render a deliberative judgment that applies the law to the pertinent facts.56 Hence, by the time federal judges (particularly those on the Supreme Court) decide a case, the action taken by the executive is several years old. Sometimes, this delay is long enough that the crisis has passed and the Court’s detached perspective has been restored.57 At other times, however, the war rages, the President’s action is set in stone, and he will ignore any judicial orders that he conform his conduct to constitutional norms.58 In such critical situations, issuing a judgment simply weakens the Court as an institution, as Chief Justice Taney learned the hard way.59 Professor Wells understands the foregoing institutional differences and thus does not naively demand that the Court exercise regular judicial review to safeguard individual constitutional rights, come hell or high water. Nonetheless, she remains troubled by cases in which the Court’s examination of executive action is so cursory as to amount to an abdication of its responsibilities—and a stamp of constitutional approval for the President’s actions.60 Therefore, she proposes a compromise: requiring the President to establish a reasonable basis for the measures he has taken in response to a genuine risk to national security.61 In this way, federal judges would ensure accountability not by substituting their judgments for those of executive officials (as hap-pens with normal judicial review), but rather by forcing them to adequately justify their decisions.62 This proposal intelligently blends a concern for individual rights with pragmatism. Civil libertarians often overlook the basic point that constitutional rights are not absolute, but rather may be infringed if the government has a compelling reason for doing so and employs the least restrictive means to achieve that interest.63 Obviously, national security is a compelling governmental interest.64 Professor Wells’s crucial insight is that courts should not allow the President simply to assert that “national security” necessitated his actions; rather, he must concretely demonstrate that his policies were a reasonable and narrowly tailored response to a particular risk that had been assessed accurately.65 Although this approach is plausible in theory, I am not sure it would work well in practice. Presumably, the President almost always will be able to set forth plausible justifications for his actions, often based on a wide array of factors—including highly sensitive intelligence that he does not wish to dis-close.66 Moreover, if the President’s response seems unduly harsh, he will likely cite the wisdom of erring on the side of caution. If the Court disagrees, it will have to find that those proffered reasons are pretextual and that the President overreacted emotionally instead of rationally evaluating and responding to the true risks involved. But are judges competent to make such determinations? And even if they are, would they be willing to impugn the President’s integrity and judgment? If so, what effect might such a judicial decision have on America’s foreign relations? These questions are worth pondering before concluding that “hard look” review would be an improvement over the Court’s established approach. Moreover, such searching scrutiny will be useless in situations where the President has made a wartime decision that he will not change, even if judicially ordered to do so. For instance, assume that the Court in Korematsu had applied “hard look” review and found that President Roosevelt had wildly exaggerated the sabotage and espionage risks posed by Japanese-Americans and had imprisoned them based on unfounded fears and prejudice (as appears to have been the case). If the Court accordingly had struck down FDR’s order to relocate them, he would likely have disobeyed it. Professor Wells could reply that this result would have been better than what happened, which was that the Court engaged in “pretend” review and stained its reputation by upholding the constitutionality of the President’s odious and unwarranted racial discrimination. I would agree. But I submit that the solution in such unique situations (i.e., where a politically strong President has made a final decision and will defy any contrary court judgment) is not judicial review in any form—ordinary, deferential, or hard look. Rather, the Court should simply declare the matter to be a political question and dismiss the case. Although such Bickelian manipulation of the political question doctrine might be legally unprincipled and morally craven, 67 at least it would avoid giving the President political cover by blessing his unconstitutional conduct and instead would force him to shoulder full responsibility. Pg. 968-970

#### Turns case – their author.

KNOWLES 09 Assistant Professor, New York University School of Law. [Robert Knowles, American Hegemony and the Foreign Affairs Constitution, Arizona State Law Journal, Spring, 2009, 41 Ariz. St. L.J. 87]

Moreover, the post-Cold War world has provoked a crisis in realism. n9 The United States is a global hegemon. It is unrivaled in its ability to deploy force throughout the globe, and it provides "public goods" for the world - such as the protection of sea lanes - in exchange for broad acceptance of [\*91] U.S. leadership. n10 Although realism predicts counter-balancing, no great power or coalition has yet emerged to challenge America's predominance. And despite a new round of predictions about American decline, the U.S. is still projected to have by far the largest economy and the largest military for decades. n11 Political scientists have struggled to define this American-led system, but courts and scholars of constitutional law have largely ignored it. n12 Instead, most debates about special deference have simply accepted outmoded classic realist assumptions that became conventional wisdom in the 1930s and 40s. This Article offers a new model for assessing appropriate judicial deference in foreign affairs that takes account of American-led order. By maintaining consistent interpretation of U.S. and international law over time and providing virtual representation for other nations and non-citizens, U.S. courts bestow legitimacy on the acts of the political branches, provide public goods for the world, and increase America's soft power - all of which assist in maintaining the stability and legitimacy of the American-led hegemonic order.

#### Aff’s not sufficient – whole rez key.

Glen Greenwald 12, 1/25, http://www.salon.com/2012/06/25/collapsing\_u\_s\_credibility/

Two Op-Eds in The New York Times this morning both warn of the precipitous decline of American credibility on matters of human rights and peace ushered in by the Obama presidency. Taken together, they explain much of why I’ve been writing what I’ve been writing over the last three years. The first is from Columbia Professor and cyber expert Misha Glenny, who explains the significance of the first ever deployment of cyberwarfare — by the U.S. (first under Bush and accelerated under Obama), along with Israel, against Iran: THE decision by the United States and Israel to develop and then deploy the Stuxnet computer worm against an Iranian nuclear facility late in George W. Bush’s presidency marked a significant and dangerous turning point in the gradual militarization of the Internet. Washington has begun to cross the Rubicon. If it continues, contemporary warfare will change fundamentally as we move into hazardous and uncharted territory. It is one thing to write viruses and lock them away safely for future use should circumstances dictate it. It is quite another to deploy them in peacetime. Stuxnet has effectively fired the starting gun in a new arms race that is very likely to lead to the spread of similar and still more powerful offensive cyberweaponry across the Internet. Unlike nuclear or chemical weapons, however, countries are developing cyberweapons outside any regulatory framework. . . . Stuxnet was originally deployed with the specific aim of infecting the Natanz uranium enrichment facility in Iran. This required sneaking a memory stick into the plant to introduce the virus to its private and secure “offline” network. But despite Natanz’s isolation, Stuxnet somehow escaped into the cyberwild, eventually affecting hundreds of thousands of systems worldwide. This is one of the frightening dangers of an uncontrolled arms race in cyberspace; once released, virus developers generally lose control of their inventions, which will inevitably seek out and attack the networks of innocent parties. Moreover, all countries that possess an offensive cyber capability will be tempted to use it now that the first shot has been fired. . . . The United States has long been a commendable leader in combating the spread of malicious computer code, known as malware, that pranksters, criminals, intelligence services and terrorist organizations have been using to further their own ends. But by introducing such pernicious viruses as Stuxnet and Flame, America has severely undermined its moral and political credibility. He also explains that the Obama administration opposes any treaties to regulate all of this in part because it “might undermine its presumed superiority in the field of cyberweaponry and robotics,” and because it claims Russia and China (but not, of course, the U.S.) would attempt to exploit such treaties to control the Internet. In case anyone thinks he’s being melodramatic in his warnings, the original New York Times article by David Sanger that confirmed U.S. responsibility for the cyber attack included this passage: “Mr. Obama, according to participants in the many Situation Room meetings on Olympic Games, was acutely aware that with every attack he was pushing the United States into new territory, much as his predecessors had with the first use of atomic weapons in the 1940s, of intercontinental missiles in the 1950s and of drones in the past decade.” It also explained that America’s maiden use of this new form of warfare “could enable other countries, terrorists or hackers to justify their own attacks.” The second is from former U.S. President Jimmy Carter, an actually meritorious Nobel Peace Prize winner, who describes the record of his fellow Nobel laureate, the current President, in an Op-Ed entitled “A Cruel and Unusual Record“: Revelations that top officials are targeting people to be assassinated abroad, including American citizens, are only the most recent, disturbing proof of how far our nation’s violation of human rights has extended. This development began after the terrorist attacks of Sept. 11, 2001, and has been sanctioned and escalated by bipartisan executive and legislative actions, without dissent from the general public. As a result, our country can no longer speak with moral authority on these critical issues. . . . . It is disturbing that, instead of strengthening these principles, our government’s counterterrorism policies are now clearly violating at least 10 of the [Declaration on Human Rights'] 30 articles, including the prohibition against “cruel, inhuman or degrading treatment or punishment.” Recent legislation has made legal the president’s right to detain a person indefinitely on suspicion of affiliation with terrorist organizations or “associated forces,” a broad, vague power that can be abused without meaningful oversight from the courts or Congress (the law is currently being blocked by a federal judge). This law violates the right to freedom of expression and to be presumed innocent until proved guilty, two other rights enshrined in the declaration. In addition to American citizens’ being targeted for assassination or indefinite detention, recent laws have canceled the restraints in the Foreign Intelligence Surveillance Act of 1978 to allow unprecedented violations of our rights to privacy through warrantless wiretapping and government mining of our electronic communications. . . . Despite an arbitrary rule that any man killed by drones is declared an enemy terrorist, the death of nearby innocent women and children is accepted as inevitable. After more than 30 airstrikes on civilian homes this year in Afghanistan, President Hamid Karzai has demanded that such attacks end, but the practice continues in areas of Pakistan, Somalia and Yemen that are not in any war zone. We don’t know how many hundreds of innocent civilians have been killed in these attacks, each one approved by the highest authorities in Washington. This would have been unthinkable in previous times. These policies clearly affect American foreign policy. Top intelligence and military officials, as well as rights defenders in targeted areas, affirm that the great escalation in drone attacks has turned aggrieved families toward terrorist organizations, aroused civilian populations against us and permitted repressive governments to cite such actions to justify their own despotic behavior. . . . At a time when popular revolutions are sweeping the globe, the United States should be strengthening, not weakening, basic rules of law and principles of justice enumerated in the Universal Declaration of Human Rights. But instead of making the world safer, America’s violation of international human rights abets our enemies and alienates our friends. One can reasonably object to Carter’s Op-Ed on the ground that it romanticizes a non-existent American past (systematic human rights abuses are hardly a new development in the post-9/11 world), but what cannot be reasonably disputed is the trend he denounces. Note that the most egregious examples he cites — assassinating U.S. citizens without due process, civilian-killing drone attacks, the indefinite detention provisions of the NDAA — had some genesis under Bush but are hallmarks of Obama policy (his other example, the rapid erosion of constraints on government domestic surveillance, took place under both, with the full support of Obama). It’s a remarkably scathing denunciation of the record of his own political party and its current leader. Many American pundits and foreign policy experts love to depict themselves as crusaders for human rights, but it almost always takes the form of condemning other governments, never their own. There’s no end to self-styled U.S. human rights moralizers who will oh-so-bravely (and inconsequentially) write one screed after the next about the oppressive acts of Syria, or Russia, or China, or Iran (the targets of their wrath are not just foreign governments, but usually ones serving the role as Current Enemy of the U.S. Government). But when it comes to the human rights violations they can actually do something about — the ones committed (or enabled) by their own government: the government for which they vote and to which they pay taxes and over which they are supposed to act as adversarial watchdogs — they are largely silent. They prefer the cheap, easy, self-satisfying and pointless sermons (look over there at how terrible that foreign country is) to the much harder and more purposeful opposition to their own government’s abuses (American commentators who devote substantial attention to the human rights abuses of other nations but the bulk of their time on their own government’s are commendable rarities). As Noam Chomsky perfectly explained when asked why he focuses more of his time and energy on the human rights abuses of the U.S. and its allies than other countries: My own concern is primarily the terror and violence carried out by my own state, for two reasons. For one thing, because it happens to be the larger component of international violence. But also for a much more important reason than that; namely, I can do something about it. So even if the U.S. was responsible for 2 percent of the violence in the world instead of the majority of it, it would be that 2 percent I would be primarily responsible for. And that is a simple ethical judgment. That is, the ethical value of one’s actions depends on their anticipated and predictable consequences. It is very easy to denounce the atrocities of someone else. That has about as much ethical value as denouncing atrocities that took place in the 18th century. Condemning the abusive acts of other countries while ignoring or sanctioning those of one’s own government is indeed easy. It’s cost-free. It’s inconsequential. It’s career-advancing (using purported human rights concerns to bash America’s Enemies converts one into an eager, useful instrument of U.S. policy and a perpetuator of D.C. orthodoxy). And, most of all, it’s self-affirming (those people over there are really bad, but not us, and by railing against them I show what a good and concerned person I am). That’s precisely why the prime dogma in U.S. political and media discourse on foreign policy is that serious human rights violations (along with Terrorism) are something that non-Westerners do, not the West (and certainly not the U.S.). What these two Op-Eds today demonstrate is that not only is this false, but the U.S. continues to be a key pioneer in these abuses. It’s easy to distinguish American pundits and experts with a genuine commitment to human rights from those who feign concern by the extent to which they work against their own government’s conduct.

#### Signaling doesn’t happen – cred theory wrong.

Zenko ‘13 [Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise, accessed 6-12-13, mss]

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

#### Congress doesn’t help war-fighting.

Nzelibe and Yoo 6 [Jide Nzelibe is Assistant Professor of Law, Northwestern University Law School. ¶ John Yoo is Professor of Law, University of California at Berkeley School of Law (Boalt Hall), ¶ and Visiting Scholar, American Enterprise Institute 2006 Yale Law Journal “Rational War and Constitutional Design” http://www.yalelawjournal.org/pdf/115-9/Nzelibe.pdf]

But 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.¶ 3 ¶ 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.¶ The other side of the coin here usually goes little noticed, but is just as important for evaluating the substantive performance of the Congress-first system. To a significant extent, much of the war powers literature focuses on situations in which the United States might erroneously enter a war where the costs outweigh the expected benefits. Statisticians usually label such errors of commission as Type I errors. Scholars rarely, if ever, ask whether requiring congressional ex ante approval for foreign wars could increase Type II errors. Type II errors occur when the United States does not enter a conflict where the expected benefits to the nation outweigh the costs, and this could occur today when the President refuses to launch a preemptive strike against a nation harboring a hostile terrorist group, for example, out of concerns over congressional opposition. It may be the case that legislative participation in warmaking could prevent the United States from entering, or delaying entry, into wars that would benefit its foreign policy or national security. The clearest example is World War II. During the inter-war period, Congress enacted several statutes designed to prevent the United States from entering into the wars in Europe and Asia. In 1940 and 1941, President Franklin D. Roosevelt recognized that America’s security would be threatened by German control of Europe, and he and his advisers gradually attempted to bring the United States to the assistance of Great Britain and the Soviet Union.16 Nonetheless, congressional resistance prevented Roosevelt from doing anything more than supplying arms and loans to the Allies, although he arguably stretched his authority to cooperate closely with Great Britain in protecting convoys in the North Atlantic, among other things. It is likely that if American pressure on Japan to withdraw from China had not helped triggered the Pacific War, American entry into World War II might have been delayed by at least another year, if not longer.17 Knowing what we now know, most would agree that America’s earlier entry into World War II would have been much to the benefit of the United States and to the world. A more recent example might be American policy in the Balkans during the middle and late 1990s.

#### Soft power fails – Obama won’t even use it.

Mark P. Lagon 11, Adjunct Senior Fellow for Human Rights http://www.cfr.org/world/value-values-soft-power-under-obama/p26212

One irony of the Obama presidency is how much it relies on hard power. The president came into office proposing a dramatic shift from George W. Bush's perceived unilateralism, and most of his predecessor's hard-edged counterterrorism tactics and massive deployments in wars abroad. Yet after three years, Obama has escalated forces in Afghanistan, embraced the widespread use of unmanned drones to kill terrorists at the risk of civilian casualties, kept Guantánamo open, and killed Osama bin Laden in Pakistan in a thoroughly unilateral fashion. What he hasn't accomplished to any great degree is what most observers assumed would be the hallmark of his approach to foreign affairs—a full assertion of the soft power that makes hard power more effective. His 2008 campaign centered on a critique of President Bush's overreliance on hard power. Obama suggested he would rehabilitate the damaged image of America created by these excesses and show that the United States was not a cowboy nation. Upon taking office, he made fresh-start statements, such as his June 2009 remarks in Cairo, and embraced political means like dialogue, respectful multilateralism, and the use of new media, suggesting that he felt the soft power to change minds, build legitimacy, and advance interests was the key element missing from the recent US approach to the world—and that he would quickly remedy that defect. Yet President Obama's conception of soft power has curiously lacked the very quality that has made it most efficacious in the past—the values dimension . This may seem odd for a leader who is seen worldwide as an icon of morality, known for the motto “the audacity of hope” and his deployment of soaring rhetoric. Yet his governance has virtually ignored the values dimension of soft power, which goes beyond the tradecraft of diplomacy and multilateral consultation to aggressively assert the ideals of freedom in practical initiatives. The excision of this values dimension renders soft power a hollow concept.

#### Heg doesn’t solve war

Preble, 10 – (Christopher Preble, director of foreign policy studies at the Cato Institute, August 2010 “U.S. Military Power: Preeminence for What Purpose?” <http://www.cato-at-liberty.org/u-s-military-power-preeminence-for-what-purpose/>)

Most in Washington still embraces the notion that America is, and forever will be, the world’s indispensable nation. Some scholars, however, questioned the logic of hegemonic stability theory from the very beginning. A number continue to do so today. They advance arguments diametrically at odds with the primacist consensus. Trade routes need not be policed by a single dominant power; the international economy is complex and resilient. Supply disruptions are likely to be temporary, and the costs of mitigating their effects should be borne by those who stand to lose — or gain — the most. Islamic extremists are scary, but hardly comparable to the threat posed by a globe-straddling Soviet Union armed with thousands of nuclear weapons. It is frankly absurd that we spend more today to fight Osama bin Laden and his tiny band of murderous thugs than we spent to face down Joseph Stalin and Chairman Mao. Many factors have contributed to the dramatic decline in the number of wars between nation-states; it is unrealistic to expect that a new spasm of global conflict would erupt if the United States were to modestly refocus its efforts, draw down its military power, and call on other countries to play a larger role in their own defense, and in the security of their respective regions. But while there are credible alternatives to the United States serving in its current dual role as world policeman / armed social worker, the foreign policy establishment in Washington has no interest in exploring them. The people here have grown accustomed to living at the center of the earth, and indeed, of the universe. The tangible benefits of all this military spending flow disproportionately to this tiny corner of the United States while the schlubs in fly-over country pick up the tab.

#### Heg politically locked-in

Arndt ’13 Thomas, Department of Global Affairs @ Rutgers, “Airpower and the Hawk/ Dove Dynamicin American Politics: Post-Vietnam to Post-9/11,” may 2013

To be sure, the technology allows an opening for doves to take on a hawkish tone because it is so much less intrusive in the application of hard power. Many who **might otherwise carry the dovish mantle** are actually voting hawkish because it is limited in nature, and may in their opinion actually serve to lessen casualties on both sides. Thus, it is the quality of the hawkishness that is of concern, not merely its quantity. Not all means of intervention are created equal. American leaders seem to have coalesced around a belief in the ability of drones to deliver foreign policy ends more effectively as a beneficial option than what hawkish policies used to entail – greater ground force and larger commitments. Thus, the debate may have shifted to a point where dovish tendency has embraced the limited stick of unmanned airpower and precision strike capability as a means of excusing the need for larger, more conventional aspects of U.S. air superiority to continue to guard against such challenges by potential state adversaries in the future. What doves like about the direction of the war against terrorism is that it provides an excuse to transition to a lighter, cheaper, and more mobile force – one that is ultimately less lethal in a conventional sense, because it does not need to be large and bulky in order to fight low intensity conflict. As undesirable as it is compared to an ideal of world peace, the low loss of life inherent in LIC (compared to great purges of human life in the world wars for example) satisfies dovish concerns over bringing down the average loss of life in international conflict. The advances in technology themselves, allow for this thinking to operate more extensively, where doves seem like hawks especially when conflict can be conducted remotely. Despite the clear zones of disagreement seen throughout the data presented in previous chapters, there is a school of thought suggesting that differences between hawkish and dovish poles are hardly skin-deep. Thus, one interpretation is to conclude that overall, the dynamic is really only about the contesting of relatively minor details and is ultimately just tweaking around the edges. Beyond the relative consensus about the leadership role for the U.S. (including its assertive military) to ‘police the world,’ many aspects of military policy are **not even contested** in any significant way by doves. Defense funds, for example, are essentially ‘main-lined’ because things like operation and maintenance costs do not start from zero in the budget. In fact, ‘zero’ becomes measured in relation to the projected rate of increase from the previous year. To stray from this perpetually inclined trajectory becomes the starting point in the discussion. However, as this data shows, individual programs for weapons systems are singled out to be funded/ de-funded. This could be considered the upper echelon of the defense budgeting process, where Congress exerts its control over its special projects to foster the highest-end (non-classified) weapons systems in the world. And yet, some of the clashes do have a significant impact on the fate of specific systems that translate into real-world tactical advantages/ disadvantages for troops deployed in future conflicts. These clashes, however, tend to have less impact on the overarching trajectory of American military prowess. As it pertains to the Obama Administration’s somewhat ‘surprising’ hawkishness explored in chapter five, which is indicative of the general consensus formed around the more hawkish tone for American global leadership: Obama accepts the ideology of national security completely… [which] is not a statement about Obama’s flexibility or lack of it, except to say that he is constrained by the assumptions that govern how the political class understands the world and America’s place in it. The belated recognition by neoconservatives that Obama accepts this ideology was inevitable. They feign surprise mainly because it is useful to maintain the fiction that there are meaningful, large differences between the parties on major policies and they have an incentive to perpetuate the idea that they are better adherents of this ideology than those farther to the left. Likewise, there is a strong incentive on the left to emphasize small differences with neoconservatives over means and tactics.12 This embrace of relatively hawkish positioning -- especially concerning the use of armed drones -- by the Democratic Party (at least in rhetoric and within the executive branch) seems to tell a story of significantly less daylight between the two sides in partisan terms, **which is mirrored** as well in hawk/ dove terms **by the** data set. Either hawk/ dove contention was superficial all along, or there has indeed been a certain convergence of opinion – or both. To be sure, the combination of both factors has led to a similar place, although the data itself seems to suggest that the formation of some degree of consensus (i.e., policy convergence) through a long and event-filled process has been the more significant factor. Splits between hawks and doves were, and continue to be real – not just perceived phenomena, even as they may have come less frequently in the post- 9/11 years and have less of an impact on outcomes in the nation’s assertive use of airpower.

### 1NC—Solvency

#### no new level threats—Article II shouldn’t be subject to an open-ended declaration of war

Jennifer Daskal and Steve Vladeck 3/17/2013 (Jen is a fellow at the Georgetown Center on National Security and Law, and former Assistant Attorney General for National Security at the Department of Justice. Steve is a professor of law and the associate dean American University Washington College of Law. "After the AUMF: A Response to Chesney, Goldsmith, Waxman and Wittes" lawfareblog.com/2013/03/after-the-aumf/)

As we explain in the post that follows, we believe that the CGWW proposal is, at best, a solution in search of a problem that does not exist. More than that, though, we fear that the sweeping and preemptive militarization of counterterrorism for which they argue is not just unnecessary on current facts, but also deeply misguided—and likely counterproductive—as a matter of policy and prudence. To put it simply, we believe that the AUMF, coupled with existing criminal laws, the President’s power to defend the country from imminent future attacks, and a host of related tools that the Executive regularly employs, provides the government with more than sufficient authorities at present—and that nothing will stop this or any future President from returning to Congress if and when a specific case arises for which new statutory authorization to use military force is necessary. I. THE CGWW PROPOSAL AND WHY IT IS UNNECESSARY The CGWW proposal begins from two factual premises with which we wholeheartedly agree: “the conflict [authorized by the AUMF] is growing less salient as U.S. and allied actions degrade the core of al Qaeda and the U.S. military draws down its forces fighting the Taliban in Afghanistan,” and “newer terrorist groups that threaten the United States and its interests are emerging around the globe.” From this they derive their principal animating concern: “[W]e are reaching the end point of statutory authority for the president to meet terrorist threats.” That sounds fairly ominous: Indeed, if it were in fact the case that, all of a sudden, the Executive Branch lacked legal authority to deal with newly emerging terrorist threats to the United States, we would be fully on board with their call for new authorities. But the premises of CGWW’s argument are fundamentally mistaken. First, it is not clear that any splinter terrorist groups pose the kind of threat to the United States that justify a congressional authorization of military force—or the application of law-of-war tools. In the recently released Intelligence Community Worldwide Threat Assessment, only al Qaeda in the Arabian Peninsula (“AQAP”) is described as having the intent and capacity to launch attacks on the U.S. homeland. But as CGWW themselves acknowledge, AQAP is one group that appears to fall neatly within the definition of “associated forces” that both the Obama Administration and Congress (in the FY2012 National Defense Authorization Act) have deemed covered by the AUMF, i.e., “an organized, armed group that has entered the fight alongside al-Qaeda” and that is a “co-belligerent with al-Qaeda in hostilities against the United States or its coalition partners.” Thus, the threat posed by AQAP appears to be squarely covered by the AUMF as currently interpreted, and it is not clear why any new authorities are needed for them. Second, as CGWW acknowledge, Article II authorities should provide the President with the authority to take immediate—and, where necessary, lethal—action with respect to any member or leader of any other such splinter groups that pose an imminent and significant threat that cannot feasibly be addressed through other means. Thus, any actual threat can be appropriately dealt with pursuant to the President’s Article II powers, without resorting to what amounts to an open-ended and permanent declaration of armed conflict. [Contra footnote 5 of CGWW, a mere reaffirmation of the President's Article II authorities is not what the Bush Administration had initially sought in its proposal for an open-ended AUMF.]