## 1NC

**1NC T**

**Interp-- Restrictions are prohibitions**

**Court of Appeals 12**

(STATE OF WASHINGTON DEPARTMENT OF HEALTH, THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I, RANDALL KINCHELOE Appellant. vs. Respondent, BRIEF OF APPELLANT, [http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe's.pdf](http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf))

3. **The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms** and conditions that are included in the 2001 Stipulation. **Black's Law Dictionary**, 'fifth edition,(1979) **defines "restriction" as; A limitation** often **imposed** in a deed or lease **respecting the use to which the property may be put**. **The term "restrict' is also cross referenced with the term "restrain**." **Restrain is defined as**; **To limit, confine**, abridge, narrow down, restrict, **obstruct, impede**, hinder, stay, destroy. **To prohibit from action; to put compulsion on; to restrict;** to hold or press back. To keep in check; **to hold back from acting**, **proceeding, or advancing**, either by physical or **moral** force, or by interposing obstacle, to repress or suppress, to curb.

### 1NC DA

#### Congress is attempting to levy new sanctions on Iran now—if they pass, negotiations will be derailed—Obama’s political capital is key

Glass, 3/25

(Jacob, Truman-Albright Fellow and Huffington Post, "As Iran Nuclear Negotiations Begin, Threat of Increased Sanctions Looms Large", 3/25/14, [www.huffingtonpost.com/jacob-glass/as-iran-nuclear-negotiati\_b\_5024604.html](http://www.huffingtonpost.com/jacob-glass/as-iran-nuclear-negotiati_b_5024604.html) NL)

Last week Iran and the so-called P5+1 countries -- Russia, China, Britain, France, the U.S., plus Germany -- began a new round of negotiations in the Austrian capital of Vienna. While perhaps overshadowed by tensions on the Crimean Peninsula and missing Malaysian Flight 370, the talks mark a significant step towards resolving the Iranian nuclear crisis. Yet misguided calls by Congress to increase sanctions on Iran threaten to scuttle progress, and underscore the fragility of the negotiating process.¶ Over the past three decades, Iran has faced crippling sanctions imposed by America and the international community. Trade restrictions have steadily increased to block Iran's lucrative petroleum export market as well as the country's participation in the global banking system. All told, international sanctions have cost [Iran over $100 billion](http://www.csmonitor.com/World/Middle-East/2013/0403/How-much-is-a-nuclear-program-worth-For-Iran-well-over-100-billion) in lost oil profits alone.¶ So called "carrot and stick" policies have long been fundamental to international diplomacy. The "stick" has been a sharp one, and has finally brought the Iranians to the negotiating table.¶ During his September visit to the UN General Assembly in New York, Iranian President Hassan Rouhani spoke with President Obama over the phone, marking the first direct communication between an American and Iranian president since 1979. On November 24, an interim "first-step" deal was reached to freeze Iran's nuclear development program and pave the way for a comprehensive agreement. The deal halts uranium enrichment above 3.5 percent and puts international observers on the ground in Iran, all but ensuring that negotiations cannot be used as a delay tactic.¶ Yet amid these positive signs that diplomacy is working, members of Congress have advocated for even more sanctions to be levied against Iran, specifically in the form of Senate Bill 1881, sponsored by Illinois Republican Mark Kirk and New Jersey Democrat Robert Menendez.¶ New sanctions would torpedo the Vienna talks and reverse the diplomatic progress that has been made.¶ Iranian officials have already promised to abandon negotiations if new sanctions are passed. Even our own allies, along with Russia and China, have opposed the move. Passing unilateral sanctions will splinter the fragile international coalition, needlessly antagonize Iranian negotiators, and make a violent conflict with Iran more likely. Diplomatic victory will only be achieved if the international community stands united before Iran.¶

**The plan resparks Congressional fights over war powers that steals focus and drains PC**

**Cohen, 11**

(Tom, CNN Wire News editor. “Debate over war powers re-emerges in Congress, courts” 7-16-11 http://www.cnn.com/2011/POLITICS/06/17/war.powers.libya/index.html//wyoccd)

Washington (CNN) -- **An endless Washington debate over the president's power to go to war has resurfaced with** the NATO-led **Libya** military mission, pitting the Obama administration against House Speaker John Boehner as well as anti-war liberals in clashes threatening to stretch from Congress to the courts to the golf course.¶ Boehner, R-Ohio, demanded more information from the White House this week on the U.S. role in the Libya mission, warning in a letter that President Barack Obama would be in violation of the War Powers Resolution of 1973 if he failed to get congressional authorization by Sunday, the 90th day since U.S. forces launched the campaign.¶ The War Powers Resolution gives the president 60 days to get congressional approval for sending U.S. forces to war, followed by a 30-day extension to end the hostilities. **Boehner told reporters** Thursday that if the White House fails to provide the requested information**, Congress might seek to defund the military effort** when it considers a defense appropriation measure next week.¶ "The ultimate option is the House, in fact, the Congress has the power of the purse," Boehner said. "And certainly that is an option as well."¶ In response to Boehner's letter, the White House sent Congress a 32-page report that asserted Obama didn't need congressional authorization because the U.S. forces play only a supporting role in Libya and don't engage in what the War Powers Resolution defined as hostilities.¶ "We're obviously not changing our mission," White House Press Secretary Jay Carney said Friday, later adding: "What we have said is that our role in this mission, our support role and the kind of engagement we have right now, does not meet, in our legal analysis, ... the threshold set by the War Powers Resolution for congressional action."¶ Meanwhile, a group of 10 House members led by liberal Democrat Dennis Kucinich of Ohio and Republican Walter Jones of North Carolina, has filed a federal lawsuit challenging Obama's power to commit U.S. forces to the Libya mission.¶ "We are intending through our presence and through this lawsuit to correct an imbalance which exists today, to correct a deficiency in the separation of powers, to correct ... and to firmly establish that Congress is a co-equal branch of government and that the founders made it unmistakably clear they did not intend for the war power to be placed in the hands of an executive," Kucinich said in announcing the lawsuit on Wednesday.¶ **The showdown comes amid an already charged political environment,** with Vice President Joe Biden leading bipartisan talks aimed at getting a deficit reduction deal that can bring congressional approval to raise the federal debt ceiling.¶ Both the War Powers issue and the deficit reduction talks are likely to come up Saturday when Obama and Biden host Boehner and Republican Gov. John Kasich of Ohio for a round of golf billed as a bonding exercise.¶ Carney said the golf outing "is meant to be an opportunity for the speaker and the president, as well as the vice president and Ohio governor, to have a conversation, to socialize in a way that so rarely happens in Washington."¶ "Obviously, I would expect they will talk about some of the very important issues that have to be dealt with by this administration and this Congress," Carney said, later adding that "it's the kind of thing the president believes is useful for the leaders in Washington to do more frequently, not the game itself, but ... to engage with each other in a non-confrontational way to sort out the business between them and the differences between them."¶ **Political wrangling over war powers is common in Washington, with presidents** frequently **seeking to expand their freedom** to commit U.S. forces **and Congress battling to exert influence on the process.**

**Obama will also fight the plan**

**Silverstein, 9**

Gordon Silverstein, UC Berkeley Assistant Professor, December 2009, Bush, Cheney, and the Separation of Powers: A Lasting Legal Legacy?, http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1161&context=schmooze\_papers

Less than six months into the new administration, many of **Obama**’s staunch supporters have been surprised—even appalled—that the new president **not only had failed to fully repudiate many of the Bush-Cheney legal policies, but** in some instances, actually **seems to be embracing and extending those policy choices** (Gerstein 2009; Goldsmith 2009a, 2009b; Greenwald 2009a, 2009b; Herbert 2009; Savage 2009a). In areas ranging from the assertion of the state secrets privilege in efforts to shut down lawsuits over warrantless wiretapping (Al-Haramain v. Obama; Jewel v. NSA) and extraordinary rendition (Mohamed v. Jeppesen Dataplan) to those concerning lawsuits over detention and treatment at Guantánamo (Bostan v. Obama) and the reach of habeas corpus to Bagram Air Force Base in Afghanistan (Al Maqaleh v. Gates), as well as the continuing use of signing statements, the new Obama administration’s policies in a number of areas that were of intense interest during the campaign certainly do appear less dramatically different than one might have expected. Does this suggest that Obama actually will salvage and enhance the Bush-Cheney legal legacy?¶ Early evidence suggests the answer is no. There is a critical difference between policy and the legal foundation on which that policy is constructed. The policies may be quite similar, at least in the first few months of the new administration, but the legal legacy will turn on the underlying legal arguments, the legal foundation on which these policies are built. Here we find a dramatic difference between **Obama** and Bush. Both are **clearly interested in maintaining strong executive power**, but whereas Bush built his claims on broad constitutional arguments, insisting that the executive could act largely unhampered by the other branches of government, **the Obama administration has made clear that its claims to power are built on statutes passed by Congress, along with interpretations and applications of existing judicial doctrines**. It may be the case, as one of the Bush administration’s leading Office of Legal Counsel attorneys argued, that **far from reversing Bush-era policies, the new administration “has copied most of the Bush program, has expanded some of it**, and has narrowed only a bit” (Goldsmith 2009a). But what is profoundly different are the constitutional and legal default foundations on which these policies, and the assertions of executive power to enforce them, are built.¶ **Obama**, like virtually every chief executive in American History, seems **committed to building and holding executive power**. But unlike Bush, Obama is developing a far more traditional approach to this task, building his claims not on constitutional assertions of inherent power, but rather interpreting and applying existing statutes and judicial doctrines or, where needed, seeking fresh and expansive legislative support for his claims.

**Causes Israeli strikes**

**Perr, 12/24**

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

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

**Israeli first strike causes global nuclear war**

**Reuveny, 10**

(Rafael, professor in the School of Public and Environmental Affairs at Indiana University “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral **Israeli strike on Iran**’s nuclear facilities **would** likely **have dire consequences, including** a regional war, global economic collapse and **a major power clash**. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. **Because Iran is well-prepared, a** single, **conventional Israeli strike**—or even numerous strikes—**could not destroy all of its capabilities, giving Iran time to respond.** Unlike Iraq, whose nuclear program Israel destroyed in 1981, **Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and,** perhaps, **Turkish forces**. **Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault**, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, **Israel’s military resources may quickly dwindle, forcing it to use its** alleged **nuclear weapons**, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled **Iran** and its coalition **could** still **attack neighboring oil facilities, unleash global terrorism,** plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. From there, things could deteriorate as they did in the 1930s. **The world economy would head into a tailspin**; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony. Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. **A unilateral Israeli strike could ultimately spark World War III.**

**1NC CP**

#### Counterplan text: President Obama should pass an executive order to establish a limited ex ante judicial review process for targeted killing by drones.

**Self-restraint solves the case**

**Posner and Vermeule 7**

(Eric Posner, The University of Chicago Law School Professor, and Adrian Vermeule, Harvard Law School Professor of Law, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865)

The Madisonian system of oversight has not totally failed. Sometimes legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative prerogatives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, **legislators and judges have no real alternative to letting executive officials exercise discretion unchecked**. **The Madisonian system is a** partial **failure**; **compensating mechanisms must be adopted to fill the area of slack**, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is.¶ It is often assumed that this partial failure of the Madisonian system unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The **failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one**. **Where** Madisonian **oversight fails**, **the well-motivated executive is a victim of his own power**. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are uncertain and possibly nefarious. The partial **failure of** Madisonian **oversight thus threatens a form of inefficiency**, a kind of contracting failure **that makes** potentially **everyone**, including the voters, **worse off**.¶ **Our central question, then, is what the well-motivated executive can do to solve** or at least ameliorate **the problem**. **The solution is** for **the executive to complement his** (well-motivated) first-order **policy goals with second-order mechanisms for demonstrating credibility to other actors**. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such.¶ IV. Executive Signaling: Law and Mechanisms¶ We suggest that **the executive's credibility problem can be solved by second-order mechanisms of executive signaling**. In the general case, **well-motivated executives send credible signals by taking actions that are** more **costly for ill-motivated actors** than for well-motivated ones, thus **distinguishing themselves from their ill-motivated mimics**. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. **Commitments themselves have value as signals of benign motivations**.¶ This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 **We are** not **concerned with** binding the president so that he cannot abuse his powers, but with **how he might bind himself** or **take** other **actions that enhance his credibility**, **so that he can generate support from the public** **and** other members of the **government**. [\*895] ¶ Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types.¶ We begin with some relevant law, then examine a set of possible mechanisms -emphasizing both the conditions under which they might succeed and the conditions under which they might not -and conclude by examining the costs of credibility.¶ A. A Preliminary Note on Law and Self-Binding¶ Many of **our mechanisms are unproblematic from a legal perspective**, as **they involve presidential actions that are clearly lawful**. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. **Formally, a duly promulgated executive** rule or **order binds even the executive** unless and until it is validly abrogated, thereby **establishing a new legal status quo**. n76 **The legal authority to establish a new status quo allows a president to create inertia or political constraints that** will **affect** his own **future choices**. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. **A president might commit himself to a long-term** project of defense procurement or infrastructure or **foreign policy**, **narrowing** his own **future choices and generating new political coalitions that will act to defend the new rules** or policies.¶ More schematically, we may speak of formal and informal means of self-binding:¶ 1. **The president might use formal means to bind himself**. This is possible in the sense that **an executive order**, if otherwise valid, **legally binds the president** while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.¶ 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only **political and reputational enforcement** can **protect it from repeal**. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, **the executive's issuance of a self-binding order can trigger reputational costs**. In such cases, **repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it**.

**CP avoids politics**

Fine, 12

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**We** also **should expect presidents to prioritize and be strategic in the types of** executive **orders** that **they create** **to maneuver around a hostile Congress**. There are a variety of reasons that can drive a president’s decision. For example, presidents can use an executive order to move the status quo of a policy issue to a position that is closer to their ideal point. By doing so, presidents are able to pressure Congress to respond, perhaps by passing a new law that represents a compromise between the preferences of the president and Congress. Forcing Congress’s hand to enact legislation might be a preferred option for the president, if he perceives Congress to be unable or unwilling to pass meaningful legislation in the ﬁrst place. **While** it is possible that **such unilateral actions might spur Congress to pass a law to** modify or **reverse a president’s order**, **such responses by Congress are rare** (Howell 2003, 113-117; Warber 2006, 119). **Enacting a major policy executive order allows the president to move the equilibrium toward his preferred outcome without having to spend time lining up votes or forming coalitions with legislators.** **As a result**, and since reversal from Congress is unlikely, **presidents have** a **greater incentive to issue major policy orders** **to overcome legislative hurdles.**

### 1NC K

#### Creations of technology in combination with the law has created new justifications for warfare that guarantee infinite destruction. The affirmative’s faith in the law obscures these violences and only serves to legitimize future military interventions in the name of securitization

Smith, 02

Thomas SMITH Gov’t & Int’l Affairs @ South Florida 2 [“The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence” Int’l Studies Quarterly, 46, p. 367-371] This ev is gender modified

The role of military lawyers in all this has, according to one study, “changed irrevocably” ~Keeva, 1991:59!. Although liberal theorists point to the broad normative contours that law lends to international relations, the Pentagon wields law with technical precision. During the Gulf War and the Kosovo campaign, JAGs opined on the legal status of multinational forces, the U.S. War Powers Resolution, rules of engagement and targeting, country fly-overs, maritime interceptions, treatment of prisoners, hostages and “human shields,” and methods used to gather intelligence. Long before the bombing began, lawyers had joined in the development and acquisition of weapons systems, tactical planning, and troop training. In the Gulf War, the U.S. deployed approximately 430 military lawyers, the allies far fewer, leading to some amusing but perhaps apposite observations about the legalistic culture of America ~Garratt, 1993!. Many lawyers reviewed daily Air Tasking Orders as well as land tactics. Others found themselves on the ground and at the front. According to Colonel Ruppert, the idea was to “put the lawyer as far forward as possible” ~Myrow, 1996–97!. During the Kosovo campaign, lawyers based at the Combined Allied Operations Center in Vicenza, Italy, and at NATO headquarters in Brussels approved every single targeting decision. We do not know precisely how decisions were taken in either Iraq or Kosovo or the extent to which the lawyers reined in their masters. Some “corrections and adjustments” to the target lists were made ~Shotwell, 1993:26!, but by all accounts the lawyers—and the law—were extremely accommodating. The exigencies of war invite professional hazards as military lawyers seek to “find the law” and to determine their own responsibilities as legal counselors. A 1990 article in Military Law Review admonished judge advocates not to neglect their duty to point out breaches of the law, but not to become military ombudsmen either. The article acknowledged that the JAG faces pressure to demonstrate that he can be a “force multiplier” who can “show the tactical and political soundness of ~~his~~[their] interpretation of the law” ~Winter, 1990:8–9!. Some tension between law and necessity is inevitable, but over the past decade the focus has shifted visibly from restraining violence to legitimizing it. The Vietnam-era perception that law was a drag on operations has been replaced by a zealous “client culture” among judge advocates. Commanding officers “have come to realize that, as in the relationship of corporate counsel to CEO, the JAG’s role is not to create obstacles, but to find legal ways to achieve his client’s goals—even when those goals are to blow things up and kill people” ~Keeva, 1991:59!. Lt. Col. Tony Montgomery, the JAG who approved the bombing of the Belgrade television studios, said recently that “judges don’t lay down the law. We take guidance from our government on how much of the consequences they are willing to accept” ~The Guardian, 2001!. Military necessity is undeterred. In a permissive legal atmosphere, hi-tech states can meet their goals and remain within the letter of the law. As noted, humanitarian law is firmest in areas of marginal military utility. When operational demands intrude, however, even fundamental rules begin to erode. The Defense Department’s final report to Congress on the Gulf War ~DOD, 1992! found nothing in the principle of noncombatant immunity to curb necessity. Heartened by the knowledge that civilian discrimination is “one of the least codified portions” of the law of war ~p. 611!, the authors argued that “to the degree possible and consistent with allowable risk to aircraft and aircrews,” munitions and delivery systems were chosen to reduce collateral damage ~p. 612!. “An attacker must exercise reasonable precautions to minimize incidental or collateral injury to the civilian population or damage to civilian objects, consistent with mission accomplishments and allowable risk to the attacking forces” ~p. 615!. The report notes that planners targeted “specific military objects in populated areas which the law of war permits” and acknowledges the “commingling” of civilian and military objects, yet the authors maintain that “at no time were civilian areas as such attacked” ~p. 613!. The report carefully constructed a precedent for future conflicts in which human shields might be deployed, noting “the presence of civilians will not render a target immune from attack” ~p. 615!. The report insisted ~pp. 606–607! that Protocol I as well as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons “were not legally applicable” to the Gulf War because Iraq as well as some Coalition members had not ratified them. More to the point that law follows practice, the report claimed that certain provisions of Protocol I “are not a codification of the customary practice of nations,” and thus “ignore the realities of war” ~p. 616!. Nor can there be any doubt that a more elaborate legal regime has kept pace with evolving strategy and technology. Michael Ignatieff details in Virtual War ~2000! how targets were “developed” in 72-hour cycles that involved collecting and reviewing aerial reconnaissance, gauging military necessity, and coding anticipated collateral damage down to the directional spray of bomb debris. A judge advocate then vetted each target in light of the Geneva Conventions and calculated whether or not the overall advantage to be gained outweighed any expected civilian spillover. Ignatieff argues ~2000:198–199! that this elaborate symbiosis of law and technology has given birth to a “veritable casuistry of war.” Legal fine print, hand-in-hand with new technology, replaced deeper deliberation about the use of violence in war. The law provided “harried decision-makers with a critical guarantee of legal coverage, turning complex issues of morality into technical issues of legality.” Astonishingly fine discrimination also meant that unintentional civilian casualties were assumed to have been unintentional, not foreseen tragedies to be justified under the rule of double effect or the fog of war. The crowning irony is that NATO went to such lengths to justify its targets and limit collateral damage, even as it assured long-term civilian harm by destroying the country’s infrastructure. Perhaps the most powerful justification was provided by law itself. War is often dressed up in patriotic abstractions—Periclean oratory, jingoistic newsreels, or heroic memorials. Bellum Americanum is cloaked in the stylized language of law. The DOD report is padded with references to treaty law, some of it obscure, that was “applicable” to the Gulf War, as if a surfeit of legal citation would convince skeptics of the propriety of the war. Instances of humane restraint invariably were presented as the rule of law in action. Thus the Allies did not gas Iraqi troops, torture POWs, or commit acts of perfidy. Most striking is the use of legal language to justify the erosion of noncombatant immunity. Hewing to the legalisms of double effect, the Allies never intentionally targeted civilians as such. As noted, by codifying double effect the law artificially bifurcates intentions. Harvard theologian Bryan Hehir ~1996:7! marveled at the Coalition’s legalistic wordplay, noting that the “briefers out of Riyadh sounded like Jesuits as they sought to defend the policy from any charge of attempting to directly attack civilians.” The Pentagon’s legal narrative is certainly detached from the carnage on the ground, but it also oversimplifies and even actively obscures the moral choices involved in aerial bombing. Lawyers and tacticians made very deliberate decisions about aircraft, flight altitudes, time of day, ordnance dropped, confidence in intelligence, and so forth. By expanding military necessity to encompass an extremely prudential reading of “force protection,” these choices were calculated to protect pilots and planes at the expense of civilians on the ground, departing from the just war tradition that combatants assume greater risks than civilians. While it is tempting to blame collateral damage on the fog of war, much of that uncertainty has been lifted by technology and precision law. Similarly, in Iraq and in Yugoslavia the focus was on “degrading” military capabilities, yet a loose view of dual use spelled the destruction of what were essentially social, economic, and political targets. Coalition and NATO officials were quick to apologize for accidental civilian casualties, but in hi-tech war most noncombatant suffering is by design. Does the law of war reduce death and destruction? International law certainly has helped to delegitimize, and in rare cases effectively criminalize, direct attacks on civilians. But in general humanitarian law has mirrored wartime practice. On the ad bellum side, the erosion of right authority and just cause has eased the path toward war. Today, foreign offices rarely even bother with formal declarations of war. Under the United Nations system it is the responsibility of the Security Council to denounce illegal war, but for a number of reasons its members have been extremely reluctant to brand states as aggressors. If the law were less accommodating, greater effort might be devoted to diplomacy and war might be averted. On the in bello side the ban on direct civilian strikes remains intact, but double effect and military demands have been contrived to justify unnecessary civilian deaths. Dual use law has been stretched to sanction new forms of violence against civilians. Though not as spectacular as the obliteration bombing to which it so often is favorably compared, infrastructural war is far deadlier than the rhetoric of a “clean and legal” conflict suggests. It is true that rough estimates of the ratio of bomb tonnage to civilian deaths in air attacks show remarkable reductions in immediate collateral damage. There were some 40.83 deaths per ton in the bombing of Guernica in 1937 and 50.33 deaths per ton in the bombing of Tokyo in 1945. In the Kosovo campaign, by contrast, there were between .077 and .084 deaths per ton. In Iraq there were a mere .034 ~Thomas, 2001:169!. According to the classical definition of collateral damage, civilian protection has improved dramatically, but if one takes into account the staggering long-term effects of the war in Iraq, for example, aerial bombing looks anything but humane. For aerial bombers themselves modern war does live up to its clean and legal image. While war and intervention have few steadfast constituents, the myth of immaculate warfare has eased fears that intervening soldiers may come to harm, which polls in the U.S., at least, rank as being of great public concern, and even greater military concern. A new survey of U.S. civilian and military attitudes found that soldiers were two to four times more casualty-averse than civilians thought they should be ~Feaver and Kohn, 2001!. By removing what is perhaps the greatest restraint on the use of force—the possibility of soldiers dying—law and technology have given rise to the novel moral hazards of a “postmodern, risk-free, painless war” ~Woollacott, 1999!. “We’ve come to expect the immaculate,” notes Martin Cook, who teaches ethics at the U.S. Army War College in Carlisle, PA. “Precision-guided munitions make it very much easier to go to war than it ever has been historically.” Albert Pierce, director of the Center for the Study of Professional Military Ethics at the U.S. Naval Academy argues, “standoff precision weapons give you the option to lower costs and risks . . . but you might be tempted to do things that you might otherwise not do” ~Belsie, 1999!.¶ Conclusion The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhumanity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of humanitarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

#### The alternative is to reject the affirmative and their reliance on legal liberalism in favor of an epistemological criticism of the state. We must couch our criticism in the epistemology of the state in order to best understand how violence occurs and how to stop it

Gorelick, 08

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III. Literature Beyond Ethics¶ Extraordinary rendition, torture, the war on terror and the security of the state are thus various nodal points within the larger epistemology of liberal humanism -- a humanism that produces its dark chambers in its flight from the black void at its own core. Césaire's "thingification" is the product of this flight. It would therefore be misguided to assume that the violence endemic to the war on terror can be cured by simply exposing its contradictions. If images from Abu Ghraib become a common rallying cry against American militarism for disparate political factions around the globe, this cry is unheeded. If legal challenges to abominable state violence are successful, inventive re-interpretations of the law emerge, or lawlessness is simply driven underground. Instead, it is necessary to challenge the systems of thought from which these practices emerge; the task of criticism must be to interrupt the epistemology of the burrow.¶ The dark chamber (extraordinary rendition) ought to be understood as a metaphor for this epistemology, and ethical criticism must expose the totality of violence that this metaphor represents without enabling morally totalizing recuperations of the larger world ordering project currently embodied and deployed by the United States. Such a project entails a reconfiguration of the political terrain, or a reconstitution of the limits of political antagonism, but it also implies the need for an even more profound challenge to the ways in which discourses and representations of "self" and "other" are constituted. The task is not simple: as Michael J. Shapiro suggests, "Recognition of the extraordinary lengths to which one must go to challenge a given structure of intelligibility, to intervene in resident meanings by bringing what is silent and unglimpsed into focus, is an essential step toward opening up possibilities for a politics and ethics of discourse."45 If, however, an ethical regard is rendered possible through the work of rigorous critique -- through the establishment of a critical distance between the critic and the object of criticism then the question for critique concerns the very nature of the ethical itself.¶ Because the crisis in representation by which the dark chamber is constantly being suppressed is constitutive of politics as such, then the problem, as Coetzee reminds us, is "how not to play the game by the rules of the state, how to establish one's own authority, how to imagine torture and death on one's own terms."46 Coetzee's suggestion that torture and death might be "imagined" implies that an effective intervention should not adopt a strategy of representational verisimilitude -- the goal should not be to take and disseminate photographs of Uzbek or Russian torture chambers, or to produce comprehensive, anatomical descriptions of horrendous state-sanctioned violence. Such efforts risk a different kind of satisfaction than that which is demonstrated by a smiling prison guard at Abu Ghraib, a voyeuristic pleasure in consuming images of a suffering other and a dangerous appropriation of that suffering as something to be easily understood and made one's own. The image thus commodified, its subject's pain is reduced to a political bargaining chip, a source for aesthetic elaboration, a sensational news item; the singularly unrepresentable experience of torture -- the reason for which it is inexcusable -- is polluted by its representation.¶ So, it is necessary to expose and criticize torture, but the brutality of the experience must somehow be represented in its unrepresentability. A criticism in search of ethical possibilities, in whatever form, must find ways to avoid "either looking on in horrified fascination as the blows fall or turning one's eyes away."47 It must situate itself at the level of epistemology, rather than fixating on singular eruptions of violence and state brutality. Otherwise, critique is already "play[ing] the game by the rules of the state," operating within the dialectic of visibility endemic to the epistemology of the burrow.

### Solvency

**Obama will circumvent the plan**

**Levine 12**

(David Levine, Law Clerk; J.D., May 2012, University of Michigan Law School 2013 SURVEY OF BOOKS RELATED TO THE LAW: BOOK NOTICE: A TIME FOR PRESIDENTIAL POWER? WAR TIME AND THE CONSTRAINED EXECUTIVE, 111 Mich. L. Rev. 1195)

**Both the** Declare War Clause n49 and the War Powers Resolutionn50 **give Congress** some **control over** exactly when **"war**time" exists. While the U.S. military was deployed to Libya during the spring and summer of 2011, the **Obama** Administration **advanced** the argument **that,** under the circumstances, **it was bound by neither** clause. n51 If Dudziak is worried about "war's presence as an ongoing feature of American democracy" (p. 136), Libya is a potent case study with implications for the use of force over the coming decades.¶ Article I, Section 8 of the U.S. Constitution grants to Congress the power to "declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water." n52 Although there is substantial debate on the precise scope of these powers, n53 this clause at least provides some measure of congressional control over significant commitments of U.S. forces to battle. However, it has long been accepted that presidents, acting pursuant to the commander-in-chief power, may "introduce[] armed forces into situations in which they encounter[], or risk[] encountering, hostilities, but which [are] not "wars' in either the common meaning or the [\*1207] constitutional sense." n54 Successive administrations have adopted some variant of that view and have invariably deployed U.S. forces abroad in a limited manner based on this inherent authority. n55¶ The **Obama** Administration **has adopted this position - that a president has inherent** constitutional **authority to deploy forces outside of war - and even sought to clarify it**. In the Office of Legal Counsel's ("OLC") memo to President Obama on the authority to use military force in Libya, n56 the Administration acknowledged that the Declare War Clause is a "possible constitutionally-based limit on ... presidential authority to employ military force." n57 The memo reasoned that the Constitution speaks only to Congress's ability to shape engagements that are "wars," and that presidents have deployed forces in limited contexts from the earliest days of the Union. n58 **Acknowledging those facts, the memo concluded that the constitutional limit on congressional power must be the conceptual line between war and not war**. In locating this boundary, the memo looked to the "anticipated nature, scope, and duration" of the conflict to which President Obama was introducing forces. n59 OLC found that the "war" standard "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." n60¶ The Obama Administration's position was not out of sync with previous presidential practice - the Declare War Clause did not require congressional approval prior to executive deployment of troops. In analyzing the "nature, scope, and duration" questions, the memo looked first to the type of missions that U.S. forces would be engaged in. The air missions envisioned for the Libya operation did not pose the threat of withdrawal difficulty or escalation risk that might indicate "a greater need for approval [from Congress] at the outset." n61 The nature of the mission, then, was not similar to full "war." Similarly, the scope of the intended operation was primarily limited, at the time the memo was written, to enforcing a no-fly zone. n62 Consequently, [\*1208] the operation's expected duration was not long. Thus, concluded OLC, "the use of force by the United States in Libya [did not rise] to the level of a "war' in the constitutional sense." n63 While this conclusion may have been uncontroversial, it highlights Dudziak's concerns over the manipulation of the idea of "wartime," concerns that were heightened by the Obama Administration's War Powers Resolution analysis. Congress passed the War Powers Resolution in 1973 in an attempt to rein in executive power in the wake of the Vietnam War. n64 The resolution provides that the president shall "in every possible instance ... consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." n65 Additionally, when the president sends U.S. forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated," the resolution requires him to submit a report to Congress describing the circumstances of the deployment and the expected involvement of U.S. troops in the "hostilities." n66 Within sixty days of receiving that report, Congress must either declare war or in some other way extend the deployment; in the absence of some ratifying action, the resolution requires that the president withdraw U.S. forces. n67 Though eschewing the plainly confrontational route of directly challenging Congress's power under the War Powers Resolution, the **Obama** Administration implicitly **challenged Congress's ability to affect future operations**. In declining to withdraw forces, despite Congress's lack of approving legislation, President Obama claimed that the conflict in Libya could not be deemed "hostilities" as that term is used in the resolution. This argument was made both in a letter to Congress during the summer of 2011 n68 and in congressional testimony given by Harold Koh, the State Department Legal Advisor under the Obama Administration. n69 [\*1209] Koh's testimony provides the most complete recitation of the Obama Administration's analysis and focuses on four factors that distinguish the fighting in Libya (or at least the United States' participation) from "hostilities": the scope of the mission, the exposure of U.S. forces, the risk of escalation, and the nature of the tactics to be used. First, "the mission is limited." n70 That is, the objectives of the overall campaign led by the North American Treaty Organization ("NATO") were confined to a "civilian protection operation ... implementing a U.N. Security Council resolution." n71 Second, the "exposure" of the U.S. forces involved was narrow - the conflict did not "involve active exchanges of fire with hostile forces" in ways that would endanger U.S. service members' safety. n72 Third, the fact that the "risk of escalation [was] limited" weighed in favor of not categorizing the conflict as "hostilities." n73 Finally, the "military means" the United States used in Libya were limited in nature. n74 The majority of missions were focused on "providing intelligence capabilities and refueling assets." n75 Those American flights that were air-to-ground missions were a mix of suppression-of-enemy-air-defenses operations to enforce a no-fly zone and strikes by armed Predator drones. n76 As a point of comparison, Koh noted that "the total number of U.S. munitions dropped has been a tiny fraction of the number dropped in Kosovo." n77 With the exception of this final factor, these considerations are quite similar to the factors that define whether a conflict is a "war" for constitutional purposes. n78¶ **The result** of this reasoning **is a substantially** **relaxed restraint on presidential authority to use force abroad going forward**. **As armed drones begin** [\*1210] **to make up a larger portion of the U**nited **S**tates' **arsenal**, n79 **and as other protective technologies, such as standoff munitions** n80 **and electronic warfare techniques, gain traction, it is far more likely that the "exposure" of U.S. forces will decrease substantially**. The force used in Yemen and the Horn of Africa is illustrative of this new paradigm where U.S. service members are not "involved [in] active exchanges of fire with hostile forces," n81 but rather machines use force by acting as human proxies. To the same point, if the "military means" used in Libya are markers of something short of "hostilities," the United States is only likely to see the use of those means increase in the coming decades. Pressing the logic of Koh's testimony, **leeway for unilateral executive action will increase as** the makeup of **our arsenal continues to modernize**. n82¶ Dudziak worries about the invocation of "wartime" as an argument for the perpetual exercise of extraordinary powers. The Libya scenario, of course, is somewhat different - **the president has argued that the absence of "war" leaves him** a residuum of **power such that he may use force abroad without congressional input**. The two positions are of a piece, though. Dudziak argues that legacy conceptions of "wartime" and "peacetime" have left us vulnerable to the former's use, in and of itself, as a reason for increased executive power. Such literal thinking - that "war" is something specific or that the word "hostilities" has certain limits - also opens the door to the Obama Administration's defense of its position on Libya. And looking at the substance of that position leaves much to be desired.¶ Both Koh's testimony and the OLC memo pay lip service to the idea that the policy considerations underlying their position are consistent with the policy considerations of the Framers with respect to the Declare War Clause and Congress with respect to the War Powers Resolution. But the primary, if not the only, consideration mentioned is the loss of U.S. forces. That concern is front and center when analyzing the "exposure" of service [\*1211] members, n83 and it is also on display with respect to discussions about the nature and scope of an operation. n84 This is not the only policy consideration that one might intuit from those two provisions, however. Using lethal force abroad is a very serious matter, and the U.S. polity might rationally want input from the more representative branch in deciding when, where, and how that force is used in its name. In that same vein, permitting one individual to embroil the nation in foreign conflicts - limited or otherwise - without the input of another coequal branch of government is potentially dangerous. n85¶ As Dudziak's framework highlights the limits of **the Obama Administration's argument for expansive power**, so does the Administration's novel dissection of "hostilities" illustrate the limits of Dudziak's analysis. Dudziak **presents a narrative arc bending toward the expansion of wartime and, as a result, increased presidential power**. That is not the case with Libya: the president finds power in "not war" rather than in "wartime." If the American public is guilty, as Dudziak asserts, of using the outmoded and misleadingly concrete terminology of "wartime" to describe an increasingly complex phenomenon, Dudziak herself is guilty of operating within a paradigm where wartime necessarily equals more executive power (than does "not war"), a paradigm that has been supplanted by a more nuanced reality. Although [\*1212] Dudziak identifies the dangers of manipulating the boundaries of wartime, her catalog of manipulations remains incomplete because of the inherent limits of her framework.¶ This realization does not detract from Dudziak's warnings about the perils of endless wartime, however. **Indeed, the powers that President Obama has claimed seem, perhaps, more palatable after a decade in which war has been invoked as an argument for many executive powers that would, in other eras, seem extraordinary**. Though he has not explicitly invoked war during the Libya crisis, President **Obama has** certainly **shown a willingness to manipulate** its **definition in the service of expanded executive power in ways that seem sure to increase "war's presence as an ongoing feature of American democracy"** (p. 136).¶ Conclusion Dudziak presents a compelling argument and supports it well. War Time is potent as a rhetorical device and as a way to frame decisionmaking. **This is especially so for the executive branch of the U.S. government, for which wartime has generally meant increased, and ever more expansive, power**. **As the U**nited **S**tates **continues to transit an era in which the lines between "war" and "peace" become increasingly blurred and violent adversaries are a constant, the temptation to claim** wartime **powers** - to render the extraordinary ordinary - **is significant**.¶ This Notice has argued that, contrary to Dudziak's concerns, the temptation is not absolute. Indeed, in some instances - notably, detention operations in Iraq and Afghanistan - we are still able to differentiate between "war" and "peace" in ways that have hard legal meaning for the actors involved. And, importantly, the executive still feels compelled to abide by these distinctions and act in accordance with the law rather than claim wartime exceptionalism.¶ That the temptation is not absolute, however, does not mean that it is not real or that Dudziak's concerns have not manifested themselves. This detachment of expansive power from temporally bound periods has opened the door for, and in some ways incentivized, limiting wartime rather than expanding it. **While** President **Obama has recognized the legal constraints that "war" imposes, he has** also **followed** in the footsteps of **executives who** have attempted to **manipulate the definition of "war" itself** (and now the definition of "hostilities") in order to **evade** those **constraints as much as possible**. To the extent he has succeeded in that evasion, he has confirmed what seems to be Dudziak's greatest fear: that "military engagement no longer seems to require the support of the American people, but instead their inattention" (p. 132).¶

#### Signing statements take out the aff

Crouch et al. 13

(Jeffrey – Assistant Professor of American Politics at American University, Mark J. Rozell – Acting Dean and Professor of Public Policy at GMU, and Mitchel A. Sollenberger – Associate Professor of Political Science at the University of Michigan-Dearborn, “The Law: President Obama's Signing Statements and the Expansion of Executive Power,” December 2013, Presidential Studies Quarterly 43(4):883-899, accessed 12-15-13 //Bosley)

Signing statements become objectionable when a president attempts to transform statutory authority and circumvent the rule of law. To be sure, a president may find that certain provisions of legislative enactments violate executive authority or principles of separation of powers. Such weighty issues are appropriate for resolution through a process of deliberation and accommodation between the political branches or, if not settled in that fashion, through the courts. However, signing statements do not, as some suggest, start a productive dialogue (Ostrander and Sievert 2013b, 60). Instead, they invite interbranch conflict and encourage additional acts of presidential unilateralism. From Andrew Jackson through Obama's 2009 objection to various provisions of the Supplemental Appropriations Act, signing statements have resulted in unnecessary battles between the branches. Members of Congress often object to signing statements because the presence of one sometimes means that the administration is attempting to settle a policy debate without legislative input. The proper time to exchange views is during the legislative process, which takes place before a bill is submitted to the president to sign. Presidents often make deals with members of Congress on legislation in order to secure its passage. In 2009, President Obama did just that. In the process of convincing Congress to pass a funding measure for the International Monetary Fund and the World Bank “Obama agreed to allow the Congress to set conditions on how the money would be spent” and to attach a reporting requirement provision. However, the president turned around and issued a signing statement arguing that those restrictions would “interfere with my constitutional authority to conduct foreign relations.” Congress was not happy. Representative Barney Frank (D-MA) wrote to the president and accused him of breaking his word. The House even passed a bill that barred funding of the president's challenges (Kelley 2012, 11-12). Instead of encouraging dialogue and political accommodations, such actions by presidents actually short circuit the free exchange of ideas and poison relations with Congress, including lawmakers of the president's own party. If a proposed statute so clearly violates what the president views as vital constitutional principles, then he has an obligation to veto it. He should not agree to the provisions during the legislative process and then turn around and effectively challenge them. Not only does this approach increase distrust and promote greater polarization on Capitol Hill, but it also goes against the text of the Constitution. Nowhere in Article I or Article II does the Constitution provide line-item veto authority to the chief executive. As George Washington explained, “From the nature of the constitution I must approve all the parts of a bill, or reject it in toto” (Washington 1889-93, XII, 327). Even if a president makes constitutional objections during the lawmaking process, such protests do not make credible his actions of signing a bill and later challenging certain provisions through a signing statement. As Representative Frank remarked, presidents “have a legitimate right to tell us their constitutional concerns—that's different from having a signing statement.” However, he explained that “Anyone who makes the argument that ‘once we have told you we have constitutional concerns and then you pass it anyway, that justifies us in ignoring it'—that is a constitutional violation. Those play very different roles and you can't bootstrap one into the other” (Savage 2010). Louis Fisher cuts to the core of the problem with constitutional signing statements that purport to nullify statutory provisions. He argues that such statements “encourage the belief that the law is not what Congress puts in public law but what the administration decides to do later on.” Continuing, Fisher notes that “if the volume of signing statements gradually replaces Congress-made law with executive-made law and treats a statute as a mere starting point on what executive officials want to do, the threat to the rule of law is grave” (Fisher 2007, 210). We agree. It is unilateral presidential decision making itself that in this context strikes a serious blow against the core principles of separation of powers. Another problem with constitutional signing statements is that they generally lack clarity and precision, which greatly hinders the idea that they could be used to help facilitate a dialogue between a president and Congress in the first place (Fisher 2007, 210). As noted earlier, signing statements are often crafted in a world of doublespeak where words are distorted to create confusion, and ambiguity is preferred in order to muddle the president's true intent. President Bush received frequent criticism for his vague statements. Likewise, as Christopher Kelley explained, “there are numerous instances where Obama's signing statements resort to the vagaries seen in the Bush signing statements, where it becomes difficult to discern precisely what is being challenged or why” (2012, 10). The benefits of the obfuscating language are clear. Even when a president intends to ignore a statutory provision, there will be sufficient confusion among reporters, scholars, members of Congress, and certainly the public to prevent any kind of universal response. Consider, for example, President Obama's April 15, 2011, signing statement dealing with the provision to cut off funding for certain czar positions within the White House. In his analysis of that statement, presidential scholar Robert J. Spitzer argued that it merely “expresses displeasure, not disobedience to the law” (2012, 11). Two of us took the opposite view and declared that the president's statement “effectively nullified” the anti-czars provision (Sollenberger and Rozell 2011, 819). If scholars can disagree about the intended meaning of presidential signing statements, it is doubtful that a layperson can clearly discern the president's intentions.

**Secrecy issues make drone courts ineffective**

**Mulrine, 13**

(Anna, Christian Science Monitor, "Would a US 'drone court' to authorize drone strikes be a good idea?"m May 24, [www.csmonitor.com/USA/DC-Decoder/2013/0524/Would-a-US-drone-court-to-authorize-drone-strikes-be-a-good-idea-video](http://www.csmonitor.com/USA/DC-Decoder/2013/0524/Would-a-US-drone-court-to-authorize-drone-strikes-be-a-good-idea-video) NL)

The courts could help increase accountability, as will having more drone strikes under the auspices of the US military, rather than under the Central Intelligence Agency – a change the White House has indicated it will make. "It puts drone targeting within a well-established process, with rules of engagement, legal review, oversight, and a post-strike review process," says Mark Jacobson, senior transatlantic fellow at the German Marshall Fund of the United States.¶ Critics of the drone program, however, are generally not reassured by the notion of oversight from a special drone court. They note that **the FISA courts, on which the drone courts would be modeled, operate largely in secret, doing little to improve accountability to the public**. ¶ What’s more, they say, **national and international laws are already in place governing when drone strikes are legal. Those laws, they add, offer greater transparency than would a secret court**. ¶ “I’m not big on this,” Sarah Holewinski, executive director of the Center for Civilians in Conflict, says of the drone courts. “The fact is, **we have international laws. We have domestic laws. I would focus on those and say, ‘Look, here’s the due diligence you need to do in targeting a combatant. Here’s what you need to do in order to avoid civilians. Here’s what proportionality looks like.’** ”¶ Zeke Johnson, director of Amnesty International’s Security and Human Rights Campaign, argues that drone courts would do little to change critics' fundamental concerns about drone strikes.¶ “**What’s needed on drones is not a ‘kill court,’ but a rejection of the radical redefinition of ‘imminence’ used to expand who can be killed – as well as independent investigations of alleged extrajudicial executions and remedy for victims,**” he says.¶ Congress will carefully consider any drone-court proposal, Sen. Ron Wyden (D) of Oregon told National Public Radio on Thursday. Senator Wyden has demanded access to secret documents about the lethal drone attacks on Anwar al-Awlaki, an American cleric living in Yemen who was killed in 2011. ¶ For his part, Wyden expressed reservations “about **this idea of just setting up more special courts**.” ¶ “I mean, **it’s not as if we’ve struck the right balance with respect to the FISA court** at this point in terms of protecting the American people. I’ve been trying to get a number of these opinions declassified for years now,” he added, “and I haven’t been able to do it.”

#### **Plan is unconstitutional and ineffective**

Epps, 13

(Garrett, writer for The Atlantic, "Why a Secret Court Won't Solve the Drone-Strike Problem", Feb 16, [www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/](http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/) NL)

The idea of a "drone court" would send federal courts into areas they have never gone before, and indeed from which, I think, the text of the Constitution bars them. It could also put the integrity of our court system at risk.¶ Let's frame the issue properly. The present administration does not claim that the president has "inherent authority" to attack anyone anywhere. Instead, from the documents and speeches we've seen, the administration says it can order drone attacks only as provided by the [Authorization for the Use of Military Force](http://www.govtrack.us/congress/bills/107/sjres23/text)passed by Congress after the September 11 attacks--that is, against "those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons." ¶ Unlike the fictional President Bennett in Tom Clancy's Clear and Present Danger, then, President Obama can't suddenly send the drone fleet down to take out, say, Colombian drug lords or the Lord's Resistance Army in Uganda. That's a marked change from the overall position of the last administration, and it's an important limitation on the president's claimed authority.¶ But because of that limitation, a court would be supervising the president's command decisions in a time of authorized military action--after, that is, the legal equivalent of a "declaration of war." As commander in chief, the president has been given a mission by Congress. By passing the AUMF, Congress has delegated to him its full war power to use in that mission. Nothing in the AUMF is directed to the courts; in fact, I have trouble finding authority for target selection anywhere in Article III. And whatever the technological changes, constitutionally I see no difference between targeting an enemy with a drone and doing the same thing with a Cruise missile or a SEAL Team. Courts simply aren't equipped to decide military tactics.¶ The FISA Court, on the other hand, doesn't really reach beyond Article III--judges since ancient times have issued warrants for searches and arrests, and the individuals being spied on are suspected of crimes against the United States. But I don't know of a deep-rooted tradition of common-law courts telling the shire reeve he can hunt someone down and kill him without trial.

### Accountability

**Heg inevitably low**

**Weisbroke, 13**

(Kenneth, writer, editor and historian, "Recipe for a Post-Hegemonic USA", Jan 2, yaleglobal.yale.edu/content/recipe-post-hegemonic-usa) NL

ANKARA: **Governance in the U**nited **S**tates **is at a standoff. The crisis over the federal budget has led** many **people** around the world **to wonder if Americans haven’t lost their minds**. Ultimately, as Winston Churchill infamously observed, they may be counted on to do the right thing after exhausting all other options. But this hardly is sound policy with every new vote in Congress. Maybe the **latest crisis is symptomatic of a deeper and even more serious problem. The future of the United States – and the American experiment – seems bleak. The optimism for which Americans are known comes less readily.** While pessimism is nothing unique in American history – widespread since the time of the Puritans – its prevalence today is spread by the realization that **the country’s position of global superpower may soon be lost. This realization, regarded as a “post-hegemonic” fact, is no longer controversial. All empires vanish eventually**. Hegemony indeed may be a form of imperial rule – it’s been called an empire with good manners – but that’s beside the point. American hegemony may be giving way to some other post-hegemonic condition. It is hard to say where it will lead, or what it signifies.

#### No transition wars

Schweller and Pu, 11

(Randall L. Schweller is Professor of Political Science and Director of the Mershon Center’s Series on National Security Studies at Ohio State University. Xiaoyu Pu is a doctoral candidate in the Department of Political Science at Ohio State University, After Unipolarity: China's Visions of International Order in an Era of U.S. Decline, International Security, Volume 36, Number 1, Summer 2011, pp. 41-72, Project Muse) NL

The diffusion of power occurs spontaneously as a result of differential growth rates among nations.106 This process occurs peacefully because the restored global balance arises without traditional balancing behavior in the system’s core. In a world in which (1) security is plentiful, (2) territory is devalued, and (3) a robust liberal consensus exists, the rising great powers will behave more akin to rational egoists driven to maximize their absolute gains than defensive or offensive positionalists, who seek to avoid relative losses or make relative gains. Rational egoists driven to maximize absolute gains are inward-looking actors unconcerned with the fate of others or the larger system in which they are embedded. If global order persists, it will do so without an orderer. It is also worth noting that complex adaptive systems often succumb to precipitous and unexpected change, and so the restored global balance of power may not arise gradually and predictably as the next phase in a smooth cycle.107 Instead, U.S. power and the American global order may simply collapse.

#### No heg impact

**Fettweis, Assistant Professor of Political Science at Tulane, 11**

(Christopher J., “Free Riding or Restraint? Examining European Grand Strategy,” 9-26-11, Comparative Strategy 30:4, p316-332)

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

**Middle East war won’t draw in superpowers – stability concerns**

**Gelb, 10**

(Leslie, President Emeritus of the Council on Foreign Relations former senior official in the U.S. Defense Department and State Department, Foreign Affairs, November/December Foreign Affairs 2010)

Also reducing the likelihood of conflict today is that **there is no arena in which the vital interests of great powers seriously clash.** Indeed, **the most worrisome security threats today--rogue states with nuclear weapons and terrorists with weapons of mass destruction--actually tend to unite the great powers more than divide them**. In the past, and specifically during the first era of globalization**, major powers** would war over practically nothing. Back then, they fought over the Balkans, a region devoid of resources and geographic importance, a strategic zero. Today, they **are unlikely to shoulder their arms over** almost anything, even **the** highly strategic **Middle East. All have much more to lose than to gain from turmoil in that region.** To be sure, great powers such as **China and Russia** will tussle with one another for advantages, but they **will stop well short of direct confrontation.** To an unprecedented degree, the major powers now need one another to grow their economies, and they are loath to jeopardize this interdependence by allowing traditional military and strategic competitions to escalate into wars. In the past, U.S. enemies--such as the Soviet Union--would have rejoiced at the United States' losing a war in Afghanistan. Today, the United States and its enemies share an interest in blocking the spread of both Taliban extremism and the Afghan-based drug trade. China also looks to U.S. arms to protect its investments in Afghanistan, such as large natural-resource mines. More broadly, **no great nation is challenging the balance of power** in either Europe or Asia. Although nations may not help one another, they rarely oppose one another in explosive situations.

#### Precedent checks

Steven A. Cook (fellow at the Council on Foreign Relations) Ray Takeyh (fellows at the Council on Foreign Relations) and Suzanne Maloney (senior fellow at Saban Center) June 28 2007 “Why the Iraq war won't engulf the Mideast”, International Herald Tribune

Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.

**No Pakistan collapse**

**Dasgupta 13 – Director of the University of Maryland Baltimore County Political Science Program at the Universities of Shady Grove**

(Sunil, also non-resident Senior Fellow at the Brookings Institution, East Asia Forum, "How will India respond to civil war in Pakistan?", 2-25-13, http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/)

As it is, **India and Pakistan have gone down to the nuclear edge four times** — in 1986, 1990, 1999 and 2001–02. In each case, **India responded in a manner that did not escalate the conflict. Any incursion into Pakistan was extremely limited**. An Indian intervention in a civil war in Pakistan would be subject to the same limitations — at least so long as the Pakistani army maintains its integrity. **Given** the new US–India ties, **the most important factor in determining the possibility and nature of Indian intervention in a possible Pakistani civil war is Washington**. If the United States is able to get Kabul and Islamabad to work together against the Taliban, as it is trying to do now, then India is likely to continue its current policy or try to preserve some influence in Afghanistan, especially working with elements of the Northern Alliance. India and Afghanistan already have a strategic partnership agreement in place that creates the framework for their bilateral relationship to grow, but the degree of actual cooperation will depend on how Pakistan and the Taliban react. If Indian interests in Afghanistan come under attack, New Delhi might have to pull back. The Indian government has been quite clear about not sending troops to Afghanistan. If the United States shifts its policy to where it has to choose Kabul over Islamabad, in effect reviving the demand for an independent Pashtunistan, India is likely to be much more supportive of US and Afghan goals. The policy shift, however, carries the risk of a full-fledged proxy war with Pakistan in Afghanistan, but should not involve the prospect of a direct Indian intervention in Pakistan itself. India is not likely to initiate an intervention that causes the Pakistani state to fail. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar Anatol Lieven argues that **the Pakistani state is likely to continue muddling through** its many **problems, unable to resolve them but** equally **predisposed against civil war and consequent state collapse.** Lieven finds that the **strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements** — propounded by the government or by the radicals — **from taking control** of the entire country. Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state**. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience**. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, **India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.**

### Norms

#### US China war is inevitable but we’ll crush them now

Glaser, 12

(John, writer for AntiWar, "US Deploying Surveillance Drones Near China", Aug 9, news.antiwar.com/2012/08/09/us-deploying-surveillance-drones-near-china/ NL) \*We don’t endorse the ableist language in this evidence

The Pentagon will begin [flying surveillance drones](http://thehill.com/blogs/defcon-hill/operations/242979-pentagon-wades-into-territorial-dispute-between-china-japan-) off the coastlines of Japan, China and Taiwan, an agreement reached after talks between Defense Secretary Leon Panetta and Japanese Defense Minister Satoshi Morimoto at the Pentagon on Sunday.¶ The unmanned aerial missions will focus on a Pacific island chain called the Diaoyutai Islands, which have become the focal point of a simmering territorial dispute between China and Japan. Even Sen. John McCain, one of the biggest hawks in Congress, called the deployment “unnecessarily provocative.”¶ In keeping with the Obama administration’s antagonistic military postures towards China, the US has backed various neighboring countries from Japan to the Philippines. And it’s no surprise drones have taken a larger role in what the Pentagon plans to make [a new military theater of Air-Sea Battle](http://www.washingtonpost.com/world/national-security/us-model-for-a-future-war-fans-tensions-with-china-and-inside-pentagon/2012/08/01/gJQAC6F8PX_story.html).¶ New war strategies called “Air-Sea Battle” reveal Washington’s broader goals in the region and illustrate how a war with China – which the US apparently yearns for – would play out.¶ “Stealthy American bombers and submarines would knock out China’s long-range surveillance radar and precision missile systems located deep inside the country,” [reports](http://www.washingtonpost.com/world/national-security/us-model-for-a-future-war-fans-tensions-with-china-and-inside-pentagon/2012/08/01/gJQAC6F8PX_story.html) theWashington Post. ”The initial ‘blinding campaign’ would be followed by a larger air and naval assault.”¶ The Obama administration has been ramping up the pressure on China with an increasingly antagonistic foreign policy. The so-called ‘Asia pivot’ is [an aggressive policy that involves surging American military presence](http://news.antiwar.com/2011/11/17/us-seeks-to-maintain-hegemony-in-asia-pacific/) [throughout the region](http://news.antiwar.com/2012/06/06/us-refurbishing-bases-in-pacific-for-possible-conflict-with-china/) – in the Philippines, Japan, Australia, Guam, South Korea, Singapore, etc. – in an unprovoked scheme to contain rising Chinese economic and military influence.¶ Chinese officials have not appreciated this unprovoked bellicosity. In May the Chinese Defense Ministry [accused the Pentagon](http://news.antiwar.com/2012/05/22/china-accuses-pentagon-of-hyping-chinese-military-threat/) of hyping a Chinese military threat out of thin air. Others have said these Pentagon moves could start an arms race.¶ “If the U.S. military develops Air-Sea Battle to deal with the [People’s Liberation Army], the PLA will be forced to develop anti-Air-Sea Battle,” one officer, Col. Gaoyue Fan, said last year in a debate sponsored by the Center for Strategic and International Studies, a defense think tank.¶ A [recent report from the Center for Strategic International Studies](http://csis.org/files/publication/120413_gf_glaser.pdf) predicted that next year “could see a shift in Chinese foreign policy based on the new leadership’s judgment that it must respond to a US strategy that seeks to prevent China’s reemergence as a great power.”¶ “Signs of a potential harsh reaction are already detectable,” the report said. “The US Asia pivot has triggered an outpouring of anti-American sentiment in China that will increase pressure on China’s incoming leadership to stand up to the United States. Nationalistic voices are calling for military countermeasures to the bolstering of America’s military posture in the region and the new US defense strategic guidelines.”

#### We should—they’re getting area-denial capabilities

Norton, 11

Norton, international trade correspondent and Asia expert – Barron’s, 6/27/’11

(Leslie P, “Dragon Fire,” Barron’s)

Even the most casual observer seems to know that China's economy has been growing at a roughly 10% annual rate for much of the past decade. Less recognized and arguably more important to the state of the world is the fact that China's defense spending rose even faster than that -- 12% or more a year between 2000 and 2009. "The accelerating pace of China's defense budget increases is driving countries in the region, as well as the U.S., to react to preserve a balance of power and stability," says Jacqueline Newmyer, head of Long-Term Strategy Group, a Cambridge, Mass.-based defense consultant. "There is a real potential for arms races to emerge," she adds. "While once we assumed we'd have access to areas to conduct anti-terrorism or anti-insurgency operations, now we're compelled to think about preserving our ability to gain access to East Asia." Stephen Rosen, Harvard's Beton Michael Kaneb professor of national security and military affairs, agrees. "All of us are clearly moving in that direction: We, the Japanese, the Indians. The only thing stalling it now are fiscal problems in Japan and the United States," says the former advisor to one-time presidential hopeful Rudy Giuliani. Highlighting one of the fastest military buildups in history was China's debut of its stealth jet just hours before the January visit to Beijing by outgoing U.S. Defense Secretary Robert Gates. The fighter will rival the U.S.'s F-22 Raptor, the world's only operational stealth fighter. Larger than the F-22, with bigger fuel tanks, it will fly higher, faster and with less chance of detection. It's one of many Chinese weapons that will impede the U.S. military's ability to roam freely in the region.

#### Area denial causes all impacts—explicitly turns and outweighs the case

Friedberg, 2009

Aaron Friedberg, Professor of Politics and International Affairs, Woodrow Wilson School, Princeton University, Sep-Oct 2009, “Menace,” The National Interest, http://nationalinterest.org/greatdebate/dragons/menace-3818

 FAST-FORWARD to the present. America's ability to project power into the western Pacific, once unchallenged, is now threatened by the maturation of what Pentagon planners refer to as China's "anti-access/area-denial" strategy. The goal here is not to match the Americans ship-for-ship and plane-for-plane but rather to develop certain specialized capabilities designed to make it difficult, if not impossible, for U.S. forces to operate freely anywhere close to China's coasts. In the past decade, Beijing has made considerable progress toward achieving this goal. Every one of the relative handful of bases on which the United States relies to sustain its presence in East Asia will soon be within range of bombardment by repeated salvos of precisely targeted Chinese conventional ballistic and cruise missiles. At the same time, the PLA is in the process of knitting together a network of satellites, onshore radars and other sensors that will permit it to locate and track an enemy's surface ships hundreds of miles off its coasts and then use a combination of torpedoes, high-speed cruise missiles and land-based ballistic missiles to sink or disable them. America's huge and costly aircraft carriers are the key to its global power-projection capabilities. In a future crisis, Washington might have little choice but to pull them far back from China's coasts, well beyond the effective range of their aircraft. This would dramatically reduce their ability to provide air defense for U.S. friends or to conduct strikes against Chinese forces on land or at sea. In addition to these more direct modes of attack, the PLA is experimenting with antisatellite weapons and techniques for taking down an enemy's computer networks, thereby rendering him deaf and blind during the critical opening phases of a war. On the defensive side of the equation, the PLA Navy (PLAN) is turning out attack submarines at a record pace and developing sophisticated undersea mines; it is in the process of completing a massive new submarine base adjacent to the South China Sea, and has reportedly begun to deploy an undersea detection system that would aid it in engaging U.S. submarines operating off its shores. Finally, China is investing heavily in "passive defenses" (hiding or hardening critical facilities) and in advanced radars and surface-to-air missiles, including some that may be effective against "stealthy" Western aircraft and cruise missiles. THIS COMBINATION of rapidly advancing offensive and defensive capabilities is beginning to raise doubts in the region about America's ability to defend its allies and project its power. What is worse, over the next several years there will be an increasing danger that, in an extreme crisis, China's leaders might believe that they have a chance of starting a war by effectively knocking the United States out of the western Pacific and blunting its initial, retaliatory response, all without striking the American homeland and without the need to fire a single nuclear weapon. If it were successful, such an attack would leave a president with some agonizing choices. Much as during the cold war, if faced with the possibility of a quick conventional defeat in Western Europe, American decision makers would have to contemplate the use of nuclear weapons. But, as was true then, the plausibility of escalatory threats will diminish as the probability of retaliation rises. Beijing is fast approaching the point where it will have a secure second-strike force capable of dealing a devastating blow no matter how hard the United States might try to prevent it. As risky as an American attack on Chinese nuclear forces, ports, airfields and communications centers would be today, it will be considerably more so a few years from now. Beijing is in the process of deploying intercontinental-range ballistic missiles (ICBMs) that will be far less vulnerable than their predecessors. In addition to its small force of fixed, single-warhead ICBMs, over the next few years China will place in service several dozen hard-to-locate road-mobile and submarine-launched missiles, each capable of striking the United States with multiple warheads. OF COURSE, there are alternatives to the nightmare of nuclear war. If Washington chose not to use nuclear weapons, it might respond to a Chinese attack by engaging in "horizontal escalation," hitting back at another location where the opponent is vulnerable and U.S. forces still enjoy an overwhelming advantage. The most obvious way to do this, though perhaps not the only one, would be to use America's global naval strength and airpower to cut China off from the sea. This is an arena of military competition in which the United States maintains overwhelming superiority. While the PLAN may be able to contest control of its immediate coastal waters, its capabilities fall off rapidly with distance. If the United States wanted tomorrow to constrict China's maritime access to oil, minerals and markets, there would be very little Beijing could do in direct response. Chinese strategists are acutely aware of this potential vulnerability and they are hard at work on a variety of projects which, taken together, may help to mitigate the danger. Included among these are: a strategic petroleum reserve; transcontinental pipelines to Russia and Central Asia; the pursuit of undersea resources close to China's coasts; new transportation routes through Southeast Asia that would permit oil and gas from the Middle East to bypass the narrow straits off Indonesia; the construction of ports and airfields in Myanmar and Pakistan that could be used in an emergency by a future Chinese air and naval "rapid-deployment force"; a deepening strategic relationship with Iran that could provide a bridgehead to the Persian Gulf; and the development of aircraft carriers and long-range nuclear-powered attack submarines, and the construction of large numbers of diesel subs, which will give the PLAN some capacity to defend China's sea-lanes and perhaps to attack the shipping of its rivals. If produced in sufficient numbers, the same antiship ballistic missiles (ASBM) that will soon threaten American aircraft carriers could also be used against commercial vessels. Using a combination of missiles and submarines, Beijing might be able to impose a blockade of its own on key American allies like Japan, perhaps weakening its will to stay in the fight or, better yet, dissuading it from ever joining with the United States in the first place. AMERICA'S INFLUENCE in and access to Asia will be drastically reduced, with harmful long-term consequences for its security, prosperity and ability to promote the spread of liberal democracy, if it is seen to be in long-term decline relative to China or, even worse, if it appears irresolute, incompetent, unwilling or simply unable to fulfill its commitments. Other governments will then have no choice but to reconsider their national strategies either by developing their own nuclear capabilities or-worse-by bandwagoning with Beijing.

## 2NC

### Solvency

#### Obama will appoint new administrators to circumvent the aff

Sollenberger, 13

(Mitchel Sollenberger and Mark Rozell, Mark J. Rozell is a professor of public policy at George Mason University and author of the book “Executive Privilege.” Mitchel A. Sollenberger is an assistant professor of political science at the University of Michigan-Dearborn and author of “The President Shall Nominate.” Journal of Policy History, Volume 25, Number 4, 2013, NL)

Th e problems that President Barack Obama inherited when he took offi ce¶ in 2009—two wars abroad, and at home an economic crisis with possible¶ collapse of the auto industry, the meltdown of the banking sector and housing¶ market—generated expectations that he would take resolute action. With¶ strong partisan majorities in Congress and the traditional leeway in public¶ opinion during the “honeymoon” period, Obama had an unusual combination¶ of circumstances that enabled him to act boldly on a number of policy¶ fronts.¶ During actual and perceived crises, there is little sentiment to constrain a¶ president’s powers. Obama acted quickly and put into place a number of officials who could assist in responding to crises by coordinating policy responses¶ within the executive branch. Some of those officials have been commonly¶ referred to as “czars” and they have become controversial given that they are¶ usually in unconfi rmed positions and yet exercise considerable powers.¶ For example, to deal with the eff ects of the automobile industry fi nancial¶ crisis in March 2009, Obama appointed an auto recovery czar, Ed Montgomery. 1¶ Th e president tasked Montgomery with directing billions of federal dollars¶ to communities most affected by the near-collapse of the industry. Obama described Montgomery’s enormous responsibilities: “[Montgomery] will¶ direct a comprehensive eff ort that will help lift up the hardest-hit areas by¶ using the unprecedented levels of funding available in our Recovery Act¶ and throughout our government to create new manufacturing jobs and new¶ businesses where they’re needed most.” 2¶ Two months later Obama issued an executive order that created a new¶ White House Council on Automotive Communities and Workers, with the¶ auto recovery czar directing and coordinating its activities. 3 Th e council consisted¶ of eleven cabinet secretaries, the attorney general, and numerous other¶ high-level government offi cials—whose activities in the auto-recovery area¶ would all be under the direction of Montgomery. Obama created the council¶ as a temporary entity, set to expire in two years, and specifi ed that it would¶ have a variety of policy and budgetary powers, including coordinating¶ economic recovery assistance at all levels of the federal system.¶ This czar position highlights the troubles with such an arrangement. The¶ president appointed an official, not subject to confirmation, to lead a newly¶ created executive branch entity that had no statutory guidance, and provided¶ him with responsibility for determining the distribution of large sums of¶ public funds and coordinating policy among multiple departments and¶ agencies. When Montgomery resigned in 2010, the president replaced¶ him with two offi cials: a Senate-confi rmed secretary of another department¶ and an unconfirmed czar. These arrangements came about not due to¶ any constitutional-based understanding, but merely because the president¶ unilaterally decided. Indeed, there is no official title of executive branch “czar” in the U.S.¶ Constitution, federal laws, or government manuals. The very word “czar”¶ seems inappropriate in a constitutional republic. There is no commonly¶ accepted defi nition of the term, although a helpful starting point is posed by¶ James Pfi ff ner, who describes czars as “members of the White House staff¶ who have been designated by the president to coordinate a specifi c policy that¶ involves more than one department or agency in the executive branch; they¶ do not hold Senate confi rmed positions; nor are they offi cers of the United¶ States.” 4¶ Czars can certainly be found within the White House, which provides¶ them with some protection from congressional oversight; however, czars are¶ also located within a department, agency, or some unknown location. Some¶ have even had dual appointments—as a part of the White House staff and¶ also within a department or agency. 5 In all three scenarios, many czars have made significant policy, regulatory, and budgetary decisions while operating¶ independently of the normal constraints built into our constitutional system.¶ In a system of government that seeks to prevent tyranny by ensuring that¶ each branch can check the others, there are dangers in allowing executive¶ branch officials with far-reaching powers to be isolated from legislative oversight¶ and controls. 6

#### Especially true of a drone court

Greenwald 13 (Glenn, The Gaurdian, 3 May 2013, “The bad joke called 'the FISA court' shows how a 'drone court' would work”, <http://www.theguardian.com/commentisfree/2013/may/03/fisa-court-rubber-stamp-drones>, ZBurdette)

From the start, the Fisa court was a radical perversion of the judicial process. It convened in total secrecy and its rulings were classified. The standard the government had to meet was not the traditional "probable cause" burden imposed by the Fourth Amendment but a significantly diluted standard. There was nothing adversarial about the proceeding: only the Justice Department (DOJ) was permitted to be present, but not any lawyers for the targets of the eavesdropping request, who were not notified. Reflecting its utter lack of real independence, the court itself was housed in the DOJ.

And, and was totally predictable, the court barely ever rejected a government request for eavesdropping. From its inception, it was the ultimate rubber-stamp court, having rejected a total of zero government applications - zero - in its first 24 years of existence, while approving many thousands. In its total 34 year history - from 1978 through 2012 - the Fisa court has rejected a grand total of 11 government applications, while approving more than 20,000.

Despite how obedient and compliant this court always was, the Bush administration decided in late 2001 that it would have its National Security Agency (NSA) intercept the calls and emails of Americans without bothering to obtain the Fisa court approval required by the criminal law, claiming - with a straight face - that complying with the law was "too cumbersome" in the age of Terrorism. Once this lawbreaking was revealed by the New York Times in late 2005, the response from the DC political class was not to punish the responsible government officials for their lawbreaking, but rather to enact a new law (called the Fisa Amendments Act of 2008) that, in essence, simply legalized the warrantless eavesdropping scheme of the Bush administration.

That new Fisa law vested vast new surveillance powers in the US government to spy on the communications of Americans without the annoyance of obtaining permission from the Fisa court. It requires warrants from the Fisa court only in the narrowest of circumstances: the ones most susceptible to abuse. Although candidate Obama pretended to have serious concerns about the law (when he voted for it) and vowed to rein in its excesses, his administration last year demanded the renewal of this law with no reforms, and Congress, on a fully bipartisan basis, complied.

One of the provisions of the new Fisa law requires the DOJ annually to disclose to Congress the number of eavesdropping applications it files and the number approved and rejected by the Fisa court. Earlier this week, that disclosure was provided to Senate Majority Leader Harry Reid for the year 2012, and this is what it reported:

Let's repeat that: "of 1,789 applications, the FISA court did not deny any applications in whole or in part." What fantastic oversight (1789 is, ironically, the year the Constitution was ratified). The court did "modify" 40 of those applications - less than 3% - but it approved every single one. The same was true of 2011, when the DOJ submitted 1,676 applications and the Fisa court, while modifying 30, "did not deny any applications in whole, or in part".

What makes all of this worse is just how extreme the US government is "interpreting" - i.e. distorting - its eavesdropping powers under the law. Two Democratic Senators, Ron Wyden and Mark Udall, have been warning for years that the Obama administration is exploiting these laws in ways far beyond what the public knows or what a reasonable reading of the laws would permit. One of the nation's most knowledgeable surveillance experts, Julian Sanchez, has documented - citing the writing of a former Obama lawyer - documented that the law is used to target even "an American citizen located within the United States, and no court or judge is required to approve or review the choice of which individuals to tap": exactly the type of warrantless surveillance we were all told this law would prohibit. And yet, the Fisa court - even for those narrow set of cases where a warrant is required - continues as it always has: rubber-stamping virtually anything and everything the government wants to do.

There are many reasons that explain this judicial obeisance. Part of it is fear and abdication of duty: no federal judge wants to be the one who rejects a surveillance request from the government only to have the target perpetrate an attack, **even though federal judges are immunized with life tenure from such political pressures** so that they can apply the law and provide a real check on government conduct. Part of it is nationalistic delirium: federal courts in general have been disgracefully subservient to the Executive Branch every time they utter the word "Terrorism" since 9/11. And part of it is just the nature of persuasion: even the most mediocre lawyers can convince someone of almost anything if they have no opposition and can unilaterally select and depict all facts without challenge. The entire process, though depicted as some kind of check on Executive Branch behavior, is virtually designed to do the opposite: ensure the Government's surveillance desires are unimpeded. These shockingly lopsided statistics attest to the success of this design.

This is significant not only because it means there is no real check on the government's surveillance power, even as they exercise those powers in much broader ways than most people suspect. It's also significant in light of recent calls that a "drone court" be created that would provide for a similar process for the president's desire to target for execution people who have been charged with no crime. The New York Times Editorial Page has been advocating this for years.

The rationale offered is the same as what was used to justify the Fisa court: the President needs some check on who he targets, but requiring that he charge the person he wants to kill with a crime and convict them in a real court is too cumbersome. Therefore, this reasoning goes, a "drone court" modeled on the Fisa court is the happy medium: he'll have some constraints on his power to kill whomever he wants, but its secretive, one-sided process and lowered levels of required proof will ensure the necessary agility and flexibility he needs as Commander-in-Chief. As the NYT Editors put it: the drone court "would be an analogue" to the Fisa court whereby: "If the administration has evidence that a suspect is a terrorist threat to the United States, it would have to present that evidence in secret to a court before the suspect is placed on a kill list."

But does anyone believe that a "drone court" would be any less of a mindless rubber-stamp than the Fisa court already is? Except for a handful of brave judges who take seriously their constitutionally assigned role of independence, the vast majority of federal judges are far too craven to tell the president that he has not submitted sufficient proof that would allow him to kill someone he claims is a Terrorist. The fact that it would all take place in secret, with only the DOJ present, further ensures that the results would mirror the embarrassing subservience of the Fisa court. As former Pentagon chief counsel Jeh Johnson put it in a speech last month discussing this proposal:

"Its proceedings would necessarily be ex parte and in secret, and, like a FISA court, I suspect almost all of the government's applications would be granted, because, like a FISA application, the government would be sure to present a compelling case. So, at the same time the New York Times editorial page promotes a FISA-like court for targeted lethal force, it derides the FISA court as a 'rubber stamp' because it almost never rejects an application. How long before a 'drone court' operating

**Covert action statute proves**

**Lohmann 13** [Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” 1/28, <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>]

The U.S. military—in particular, the Special Operations Command (SOCOM), and its subsidiary entity, the Joint Special Operations Command (JSOC)—is responsible for carrying out military-led targeted killings.¶ Military-led targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led targeted killings may fall into one of the CAS exceptions—**for** instance, that for **traditional military activities**—so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from the CAS’s presidential finding and authorization requirements, as well as its **congressional reporting rules**.¶ Because such unacknowledged military operations are, in many respects, indistinguishable from traditional covert actions conducted by the CIA, **this** exception **may provide a “loophole” allowing the President to circumvent existing oversight mechanisms** without substantively changing his operational decisions. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.

#### They sya Obama likes th eplan—doesn’t matter

Crouch et al. 13

(Jeffrey – Assistant Professor of American Politics at American University, Mark J. Rozell – Acting Dean and Professor of Public Policy at GMU, and Mitchel A. Sollenberger – Associate Professor of Political Science at the University of Michigan-Dearborn, “The Law: President Obama's Signing Statements and the Expansion of Executive Power,” December 2013, Presidential Studies Quarterly 43(4):883-899, accessed 12-15-13 //Bosley)

Signing statements are a natural result of the vast growth in the exercise of unilateral presidential powers in the modern era. Presidents increasingly seek methods for governing by avoiding the traditional constraints provided by a system of separated powers. The rise of an increasingly powerful and virtually unchecked executive has been aided by various factors, including what Gene Healy (2008) calls a “cult of the presidency” in which power-seeking presidents are seen as the norm and even the ideal. It is hard to imagine a president today suggesting the need to give greater deference to the other branches of government. Nonetheless, the Bush era witnessed a remarkably open and critical national debate over the limits of presidential powers. In 2007-08, presidential candidate Obama made no secret of his disagreement with President Bush's conception of executive powers. Through his pledges during the campaign, Senator Obama gave clear signals that he would not push the outer limits of executive power and that he would respect the system of checks and balances. Maybe he was not exactly promising to scale back the presidency, but he left the unmistakable impression that he would not continue the Bush era trend of runaway executive powers. It is therefore appropriate to criticize President Obama for the actions we have described here because he had promised a higher standard of conduct than that practiced by his predecessors. Longtime observers of the modern presidency should not be surprised, though, as his actions fall into a customary pattern: when a new president sees the utility of a particular power established by his predecessors, he is not going to give that power away. On several occasions now, what President Obama has not been able to achieve through the normal ebb and flow of deliberations with the legislative branch, he has stipulated through the issuance of a signing statement. He has even made quips about how he looks for ways to govern without direct congressional involvement (Savage 2012). The “Unitary Executive” Theory During the George W. Bush presidency, there was substantial scholarly debate over what had been termed the “unitary executive” theory, defined by Stephen Skowronek as the claim “that the Constitution mandates an integrated and hierarchical administration—a unified executive branch—in which all officers performing executive business are subordinate to the President, accountable to his interpretations of their charge, and removable at his discretion” (2009, 2077). Skowronek's definition is drawn from four crucial constitutional provisions relating to presidential power. First, the “executive power” vested in the president by Article II is interpreted broadly by unitary executive theory proponents to justify vast authority over the rest of the executive branch. Second, the “vesting” clause of Article II, which does not contain the “herein granted” language of Article I, seems to imply greater executive power than the explicit words of the Constitution may suggest. Third, the president's oath of office is his responsibility to “preserve, protect and defend the Constitution.” Finally, the “take care” clause—the idea that the president has total control over his subordinates in the executive branch and is responsible to the entire nation for the implementation of the laws—rounds out the list (Skowronek 2009, 2076; see Kelley, forthcoming, 12-13). For legal scholars Steven Calabresi and Christopher Yoo “all of our nation's presidents have believed in the theory of the unitary executive” (2008, 4). Along similar lines, although looking at the question from a political development perspective, Skowronek casts the unitary executive theory backers as the latest in a long line of insurgents. In the past progressives extolled the virtues of a strong presidency; more recently the rebels have been conservatives who see the unitary executive theory as a way to gather power and avoid accountability (Skowronek 2009). The unitary executive theory—at least, in its current form—was essentially a creation of conservative attorneys in the Ronald Reagan Justice Department. As Christopher Kelley and Bryan Marshall note, presidents from Reagan onward have, to some degree, exhibited a belief in the unitary executive theory (2007, 144). After Watergate, the presidency faced unprecedented scrutiny from the public and the mass media, and Congress had passed a series of laws intended to check presidential power, including the Congressional Budget and Impoundment Control Act, the Ethics in Government Act, and the War Powers Resolution (Kelley 2010, 108; see Kelley 2003, 23; Rudalevige 2006). To fight back, lawyers in the Reagan OLC devised plans for the president to act unilaterally, even if against Congress's wishes (Kelley forthcoming, 6). Their actions stimulated a debate over the constitutional powers of the presidency. One prominent critic, Cass Sunstein, writes, “It has become a pervasive view within the executive branch, and to a large degree within the courts, that the original vision of the Constitution put the President on top of a pyramid, with the administration below him. This vision, set out in numerous documents by the Department of Justice's Office of Legal Counsel, my former home, is not an accurate interpretation of the Constitution. It is basically a fabrication by people of good intentions who have spoken ahistorically” (Sunstein 1993-94, 300). Similarly, it is obvious to Louis Fisher that the president does not have complete control over the executive branch. The Constitution assumes that others will share in the workload: “The Constitution does not empower the President to carry out the law. That would be an impossible assignment. It empowers the President to see that the law is faithfully carried out” (Fisher 2009-10, 591). In the separation of powers system, those executive branch agencies actually executing the laws necessarily have relationships with—and are responsible to—the other branches of government and to the laws passed by Congress, not just the president. The “Decider” Model Peter Shane argues that a different presidential model took hold during the Bush years. Shane contends that the traditional understanding of the president's role is that of the chief executive regarding himself as the “overseer” of the executive branch responsible for “general oversight” and able to “indirectly” influence his subordinates. In contrast, Bush believed more in the “decider” model, which gave him direct input into everything his subordinates might do, “without regard to any limitations Congress might try to impose on the President's power of command” (Shane 2009, 144-45). Shane concludes that the “decider” model is “profoundly undemocratic and deeply dangerous” (2009, 144). It is also contrary to law. Executive officials carry out numerous mandatory and adjudicatory duties pursuant to statutory policy. Presidents and White House aides may not intervene to change the outcomes of those decisions. Many attorneys general have advised presidents that they may not interfere with statutory duties assigned to particular executive officials (Fisher 2009-10, 576-79). Signing statements comfortably fit the “decider” model of presidential power. Scholars identify signing statements as among the current litany of unilateral presidential powers (see Cooper 2002; Moe and Howell 1999), and some see no danger in the exercise of this practice (Ostrander and Sievert 2013a, 2013b). The trouble is that some presidents have used signing statements to revise legislative intent or even to alter the balance of power between the political branches and have thus undermined democratic controls on executive power (Pfiffner 2008, 196; see also Korzi 2011, 197; Fisher 2006, 1).

**He’ll still fight to undermine your restriction**

**Richman, 11**

(Sheldon, writer for reason.com, "Congress, Obama Codify Indefinite Detention", Dec 28, reason.com/archives/2011/12/28/congress-obama-codify-indefinite-detenti NL)

Now these powers have been formally set down on paper. Ironically, **the Obama administration hinted at a veto of the bill because it introduced restrictions on its authority**. Carrying on the Bush philosophy that under the Constitution the executive branch has virtually unlimited power, **Obama objected to any congressional intrusion into its prerogatives, even if only to codify authority already claimed and exercised.**

**The CIA is untouchable**

**Alston 11 – John Norron Pomeroy Professor of Law at NYU**

(Philip, also UN Special Rapporteur on extrajudicial, summary or arbitrary executions

from 2004 until 2010, “The CIA and Targeted Killings Beyond Borders,” 2 Harv. Nat'l Sec. J. 283, accessed 11-10-13 //Bosley) \*Abbreviation added in brackets

**Despite** the existence of **a multiplicity of techniques by which the CIA might be held to account at the domestic level**, the foregoing survey demonstrates that **there is no evidence** to conclude that **any** of them **has functioned effectively in relation to the expanding practices involving targeted killings**. **The CIA Inspector General's Office has been unable to exact accountability** and proposals to expand or strengthen his role run counter to almost all official actions taken in relation to his work. The President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board are lauded by some for their potential, but there is no indication that they scrutinize activities such as targeted killings policy or practice, and many indications that they view their role as being to support rather than monitor the intelligence community. The Privacy and Civil Liberties Oversight Board remains dormant. Congressional oversight has been seriously deficient and far from manifesting an appetite to scrutinize the CIA's targeted killings policies, a range of **senior members of congress** are on record as **favor**ing **a hands-off policy**. And **a combination of the political question doctrine [PQD], the state secrets privilege, and a reluctance to prosecute, ensure that the courts** have indeed **allow**ed **the CIA to fall into a convenient legal grey hole**. Finally, **civil society has been largely stymied by the executive and the courts in their efforts to make effective use of freedom of information laws**. All that remains is the media, and most of what they obtain through leaks come from government sources that are deliberately "spinning" the story in their own favor. Simi-lar conclusions have been reached in closely related contexts. Thus, for example, **Kitrosser's survey of official responses to** the warrantless **wiretapping** initiated after 9/11 **led her to conclude** that **it was a shell game, involving "an indefinite bi-partisan, cross-administration, cross-institutional pattern of accountability-avoidance**." n450 In brief, at least in relation to targeted killings, **the CIA enjoys** almost **complete impunity and is not subject to any** form of **meaningful** internal or external **accountability**. Whether from the perspective of democratic theory or of international accountability for violations of the right to life, this is deeply problematic. One solution to this that has been suggested by some commentators is to follow the precedent set by Israel in its efforts to ensure legal oversight of its target killings programs. We turn now to examine the feasibility and desirability of pursuing such an option.

### Adv 2

#### Chinese rise causes global war between the US and China—only ensuring American military dominance and crushing China now can stop it

The Economist, 10

("The dangers of a rising China", Dec 2, [www.economist.com/node/17629709](http://www.economist.com/node/17629709) NL)

TOWARDS the end of 2003 and early in 2004 China's most senior leaders put aside the routine of governing 1.3 billion people to spend a couple of afternoons studying the rise of great powers. You can imagine history's grim inventory of war and destruction being laid out before them as they examined how, from the 15th century, empires and upstarts had often fought for supremacy. And you can imagine them moving on to the real subject of their inquiry: whether China will be able to take its place at the top without anyone resorting to arms. In many ways China has made efforts to try to reassure an anxious world. It has repeatedly promised that it means only peace. It has spent freely on aid and investment, settled border disputes with its neighbours and rolled up its sleeves in UN peacekeeping forces and international organisations. When North Korea shelled a South Korean island last month China did at least try to create a framework to rein in its neighbour. But reasonable China sometimes gives way to aggressive China. In March, when the North sank a South Korean warship, killing 46 sailors, China failed to issue any condemnation. A few months later it fell out with Japan over some Chinese fishermen, arrested for ramming Japanese coastguard vessels around some disputed islands—and then it locked up some Japanese businessmen and withheld exports of rare earths vital for Japanese industry. And it has forcefully reasserted its claim to the Spratly and Paracel Islands and to sovereignty over virtually the entire South China Sea. As the Chinese leaders' history lesson will have told them, the relationship that determines whether the world is at peace or at war is that between pairs of great powers. Sometimes, as with Britain and America, it goes well. Sometimes, as between Britain and Germany, it does not. So far, things have gone remarkably well between America and China. While China has devoted itself to economic growth, American security has focused on Islamic terrorism and war in Iraq and Afghanistan. But the two mistrust each other. China sees America as a waning power that will eventually seek to block its own rise. And America worries about how Chinese nationalism, fuelled by rediscovered economic and military might, will express itself (see our[special report](http://www.economist.com/node/17601499)). The Peloponnesian pessimists Pessimists believe China and America are condemned to be rivals. The countries' visions of the good society are very different. And, as China's power grows, so will its determination to get its way and to do things in the world. America, by contrast, will inevitably balk at surrendering its pre-eminence. They are probably right about Chinese ambitions. Yet China need not be an enemy. Unlike the Soviet Union, it is no longer in the business of exporting its ideology. Unlike the 19th-century European powers, it is not looking to amass new colonies. And China and America have a lot in common. Both benefit from globalisation and from open markets where they buy raw materials and sell their exports. Both want a broadly stable world in which nuclear weapons do not spread and rogue states, like Iran and North Korea, have little scope to cause mayhem. Both would lose incalculably from war. The best way to turn China into an opponent is to treat it as one. The danger is that spats and rows will sour relations between China and America, just as the friendship between Germany and Britain crumbled in the decades before the first world war. It is already happening in defence. Feeling threatened by American naval power, China has been modernising its missiles, submarines, radar, cyber-warfare and anti-satellite weapons. Now America feels on its mettle. Recent Pentagon assessments of China's military strength warn of the threat to Taiwan and American bases and to aircraft-carriers near the Chinese coast. The US Navy has begun to deploy more forces in the Pacific. Feeling threatened anew, China may respond. Even if neither America nor China intended harm—if they wanted only to ensure their own security—each could nevertheless see the other as a growing threat. Some would say the solution is for America to turn its back on military rivalry. But a weaker America would lead to chronic insecurity in East Asia and thus threaten the peaceful conduct of trade and commerce on which America's prosperity depends. America therefore needs to be strong enough to guarantee the seas and protect Taiwan from Chinese attack.

#### No impact to the environment and no solvency

**Doremus, Professor of Law at UC Davis, 2K**(Holly, "The Rhetoric and Reality of Nature Protection: Toward a New Discourse," Washington and Lee Law Review 57:1 Article 3, 1-1-00, <http://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1311&context=wlulr>, accessed 9-15-12 //Bosley)

Reluctant to concede such losses, **tellers of the ecological horror story highlight how close a catastrophe might be**, **and how little we know about what actions might trigger one. But the apocalyptic vision is less credible today than it seemed in the 1970s**. Although it is clear that the earth is experiencing a mass wave of extinctions,213 **the complete elimination of life on earth seems unlikely**.214 **Life is remarkably robust.** Nor is human extinction probable any time soon. **Homo sapiens is adaptable to nearly any environment.** **Even if the world of the future includes far fewer species, it likely will hold people**.215 One response to this credibility problem tones the story down a bit, arguing not that humans will go extinct but that ecological disruption will bring economies, and consequently civilizations, to their knees.2 6 But this too may be overstating the case. **Most ecosystem functions are performed by multiple species. This functional redundancy means that a high proportion of species can be lost without precipitating a collapse**.217 Another response drops the horrific ending and returns to a more measured discourse of the many material benefits nature provides humanity. Even these more plausible tales, though, suffer from an important limitation. They call for nature protection only at a high level of generality. For example, human-induced increases in atmospheric carbon dioxide levels may cause rapid changes in global temperatures in the near future, with drastic consequences for sea levels, weather patterns, and ecosystem services.21 Similarly, the loss of large numbers of species undoubtedly reduces the genetic library from which we might in the future draw useful resources.219 But **it is difficult to translate** these **insights into convincing arguments against any one of the small local decisions that contribute to the problems of global warming or biodiversity loss**." ° It is easy to argue that the material impact of any individual decision to increase carbon emissions slightly or to destroy a small amount of habitat will be small. **It is difficult to identify the specific straw that will break the camel's back.** Furthermore**, no unilateral action at the local or even national level can solve these global problems.** Local decisionmakers may feel paralyzed by the scope of the problems, or may conclude that any sacrifices they might make will go unrewarded if others do not restrain their actions. In sum, at the local level at which most decisions affecting nature are made, the material discourse provides little reason to save nature. **Short of the ultimate catastrophe, the material benefits of destructive decisions frequently will exceed their identifiable material costs**.22

**No US-Russia war**

**Cartwright et al 12**

(Gen (Ret) James Cartwright, former Vice Chairman of the Joint Chiefs of Staff; Amb. Richard Burt, former ambassador to Germany and chief negotiator of START; Sen. Chuck Hagel; Amb. Thomas Pickering, former ambassador to the UN; Gen. (Ret.) Jack Sheehan, former Supreme Allied Commander Atlantic for NATO and Commander-in-Chief for the U.S. Atlantic Command; GLOBAL ZERO U.S. NUCLEAR POLICY COMMISSION REPORT, <http://orepa.org/wp-content/uploads/2012/05/cartwright-report.pdf>]

These illustrative next steps are possible and desirable for five basic reasons. First, **mutual nuclear deterrence based on the threat of nuclear retaliation to attack is no longer a cornerstone of the U.S.-Russian security relationship**. Security is mainly a state of mind, not a physical condition, and **mutual assured destruction** (**MAD**) **no longer occupies a central psychological or political space in the U.S.-Russian relationship**. To be sure, there remains a physical-technical side of **MAD** in our relations, but it **is increasingly peripheral. Nuclear planning for Cold War-style nuclear conflict** between our countries, driven largely by inertia and vested interests left over from the Cold War, **functions on the margins using outdated scenarios that are implausible today. There is no conceivable situation in the contemporary world in which it would be in either country’s national security interest to initiate a nuclear attack against the other side**. Their current stockpiles (roughly 5,000 nuclear weapons each in their active deployed and reserve arsenals) vastly exceed what is needed to satisfy reasonable requirements of deterrence between the two countries as well as vis-à-vis third countries whose nuclear arsenals pale in comparison quantitatively

### Adv 1

#### No transition wars

**MacDonald and Parent 11**

(Paul K. MacDonald is Assistant Professor of Political Science at Williams College. Joseph M. Parent is Assistant Professor of Political Science at the University of Miami, Graceful Decline? The Surprising Success of Great Power Retrenchment,” International Security 35:4, Spring 2011, accessed 1-9-12//Bosley)

Some observers might dispute our conclusions, arguing that hegemonic transitions are more conflict prone than other moments of acute relative decline. We counter that there are deductive and empirical reasons to doubt this argument. Theoretically, hegemonic powers should actually find it easier to manage acute relative decline. **Fallen hegemons still have formidable capability, which threatens grave harm to any state that tries to cross them.** Further, **they are no longer the top target for balancing coalitions, and recovering hegemons may be influential because they can play a pivotal role in alliance formation.** In addition, hegemonic powers, almost by definition, possess more extensive overseas commitments; they should be **able to more readily identify and eliminate extraneous burdens without exposing vulnerabilities** or exciting domestic populations. We believe **the** **empirical record supports these conclusions**. In particular, **periods of hegemonic transition do not appear more conflict prone** than those of acute decline. **The last reversal at the pinnacle of power** was the Anglo American transition, which took place around 1872 and **was resolved without armed confrontation.** The tenor of that transition may have been influenced by a number of factors: both states were democratic maritime empires, the United States was slowly emerging from the Civil War, and Great Britain could likely coast on a large lead in domestic capital stock. **Although China and the United States differ in regime type, similar factors may work to cushion the impending Sino-American transition.** Both are large, relatively secure continental great powers, a fact that mitigates potential geopolitical competition.93 **China faces a variety of domestic political challenges**, including strains among rival regions, **which may complicate its ability to sustain its economic performance or engage in foreign policy adventurism**.94

#### And the only conclusive empirics go negative – their studies are flawed in ignoring wars between major and minor states which cause draw-in

**Monteiro, Assistant Professor of Political Science at NYU, 12**

(Nuno P. Monteiro, Assistant Professor of Political Science at NYU, 2012, “Unrest Assured: Why Unipolarity is not Peaceful”, pdf)

I agree with Wohlforth on these two points, but they are only part of the picture. Granted, the absence of great power wars is an important contribution toward peace, but great power competition—and the conflict it might engender—would signal the emergence of one or more peer competitors to the unipole, and thus indicate that a transition to a bipolar or multipolar system was already under way. In this sense, great power conflict should be discussed within the context of unipolar durability, not unipolar peace. Indeed, including this subject in discussions of unipolar peacefulness parallels the mistakes made in the debate about the ColdWar bipolar system. Then, arguments about how the two superpowers were unlikely to fight each other were often taken to mean that the system was peaceful. This thinking ignored the possibility of wars between a superpower and a lesser state, as well as armed conºicts among two or more lesser states, often acting as great power proxies.43 In addition, Wohlforth claims that wars among major powers are unlikely, because the unipole will prevent conflict from erupting among important states. He writes, “The sole pole’s power advantages matter only to the degree that it is engaged, and it is most likely to be engaged in politics among the other major powers.44 I agree that if the unipole were to pursue a strategy of defensive dominance, major power wars would be unlikely. Yet, there is no compelling reason to expect that it will always follow such a course. Should the unipole decide to disengage, as Wohlforth implies, major power wars would be possible. At the same time,Wohlforth argues that the unipole’s power preponderance makes the expected costs of balancing prohibitive, leading minor powers to bandwagon. This is his explanation for the absence of wars between the sole great power and minor powers. But, as I show, the costs of balancing relative to bandwagoning vary among minor powers. So Wohlforth’s argument underplays the likelihood of this type of war. Finally, Wohlforth’s argument does not exclude all kinds of war. Although power preponderance allows the unipole to manage conflicts globally, this argument is not meant to apply to relations between major and minor powers, or among the latter. As Wohlforth explains, his argument “applies with less force to potential security competition between regional powers, or between a second-tier state and a lesser power with which the system leader lacks close ties.”45 Despite this caveat, Wohlforth does not fully explore the consequences of potential conflict between major and minor powers or among the latter for his view that unipolarity leads to peace. How well, then, does the argument that unipolar systems are peaceful account for the first two decades of unipolarity since the end of the Cold War? Table 1 presents a list of great powers divided into three periods: 1816 to 1945, multipolarity; 1946 to 1989, bipolarity; and since 1990, unipolarity.46 Table 2 presents summary data about the incidence of war during each of these periods. Unipolarity is the most conºict prone of all the systems, according to at least two important criteria: the percentage of years that great powers spend at war and the incidence of war involving great powers. In multipolarity, 18 percent of great power years were spent at war. In bipolarity, the ratio is 16 percent. In unipolarity, however, a remarkable 59 percent of great power years until now were spent at war. This is by far the highest percentage in all three systems. Furthermore, during periods of multipolarity and bipolarity, the probability that war involving a great power would break out in any given year was, respectively, 4.2 percent and 3.4 percent. Under unipolarity, it is 18.2 percent—**or more than four times higher**.47 These figures provide no evidence that unipolarity is peaceful.48

**No Pakistani collapse**

**Dodds, Associated Press, 10**

(Paisley, “Pakistan's stability, leadership under spotlight after floods and double dealing accusations,” 8-6-10, <http://www.foxnews.com/world/2010/08/06/pakistans-stability-leadership-spotlight-floods-double-dealing-accusations/>, accessed 5-24-12//Bosley)

ISLAMABAD – ISLAMABAD (AP) — **Not for the first time, Pakistan appears to be teetering on the edge with a government unable to cope.** Floods are ravaging a country at war with al-Qaida and the Taliban. Riots, slayings and arson are gripping the largest city. Suggestions are flying that the intelligence agency is aiding Afghan insurgents. **The crises raise questions about a nation crucial to U.S.** hopes of success in Afghanistan and to the global campaign against Islamist militancy. Despite the recent headlines, **few here see Pakistan in danger of collapse or being overrun by militants** — a fear that had been expressed before the army fought back against insurgents advancing from their base in the Swat Valley early last year. **From its birth in 1947, Pakistan has been dogged by military coups, corrupt and inefficient leaders, natural disasters, assassinations and civil unrest. //// Through it all, Pakistan** has not prospered — but it **survives.** "There is plenty to be worried about, but also indications that **when push comes to shove the state is able to respond," said** Mosharraf **Zaidi, an analyst and writer who has advised foreign governments on aid missions to Pakistan.** "The military has many weaknesses, but it has done a reasonable job in relief efforts. There have been gaps in the response. But this is a developing a country, right?" The recent flooding came at a sensitive time for Pakistan, with Western doubts over its loyalty heightened by the leaking of U.S. military documents that strengthened suspicions the security establishment was supporting Afghan insurgents while receiving billions in Western aid. With few easy choices, the United States has made it clear it intends to stick with Pakistan. Indeed, it has used the floods to demonstrate its commitment to the country, rushing emergency assistance and dispatching helicopters to ferry the goods. The Pakistani government's response to the floods has been sharply criticized at home, especially since President Asif Ali Zardari departed for a European tour. With so many Pakistanis suffering, the trip has left the already weak and unpopular leader even more vulnerable politically. The flooding was triggered by what meteorologists said were "once-in-a-century" rains. The worst affected area is the northwest, a stronghold for Islamist militants. Parts of the northwest have seen army offensives over the last two years. Unless the people are helped quickly and the region is rebuilt, anger at the government could translate into support for the militants. At least one charity with suspected links to a militant outfit has established relief camps there. The extremism threat was highlighted by a suicide bombing in the main northwestern town of Peshawar on Wednesday. The bomber killed the head of the Frontier Constabulary, a paramilitary force in the northwest at the forefront of the terror fight. With authorities concentrating on flood relief, some officials have expressed concern that militants could regroup. The city of Karachi has seen militant violence and is rumored to be a hiding place for top Taliban and al-Qaida fighters. **It has also been plagued by regular bouts of political and ethnic bloodletting** since the 1980s, though it has been calmer in recent years. The latest violence erupted after the assassination of a leading member of the city's ruling party. More than 70 people have been killed in revenge attacks since then, paralyzing parts of the city of 16 million people. While serious, the **unrest does not** yet **pose an immediate threat to** the **stability** of the country. Although the U.S. is unpopular, there is little public support for the hardline Islamist rule espoused by the Taliban and their allies. Their small movement has been unable to control any Pakistani territory beyond the northwest, home to only about 20 million of the country's 175 million people.

## 1NR

**2NC Impact**

**It turns the case—Iran destabilizes the entire middle east and causes nuclear valley that draws in all of the ME countries because of oil dependency and physical relationship to each other. And it collapses heg --**

**Inbar, 11/2** (Prof. Efraim Inbar, director of the Begin-Sadat Center for Strategic Studies, is a professor of political studies at Bar-Ilan University and a fellow at the Middle East Forum, "Op-Ed: Washington Must Strike Iran, Not Bargain With It"[http://www.israelnationalnews.com/Articles/Article.aspx/14050~~23.UoawzPmsiSp](https://bluprd0211.outlook.com/owa/redir.aspx?C=k069nq5pyEuhD8rCnrOCcgZYl6NfttAIvSckExkiqFj8Wl26-iyxUxirJkAnjCPfLEo8bBBhbC8.&URL=http%3a%2f%2fwww.israelnationalnews.com%2fArticles%2fArticle.aspx%2f14050%7e%7e23.UoawzPmsiSp))

Finally, **Iran is the supreme test of American credibility** in world affairs. After saying so many times that a nuclear Iran is unacceptable, **allowing the radical regime of the mullahs to acquire a nuclear bomb or develop a nuclear break-out capability will be a devastating blow to American prestige.¶ Today the US is probably at its lowest ebb in the region. Friends and foes alike are bewildered by the policies of the Obama administration, seeing an extremely weak president who seems to be clueless about Middle East international politics.¶ The American willingness to allow Iran enrichment capabilities and readiness to strike a bargain with Tehran is mind-boggling in this part of the world.**

**Deal failure itself causes global war**

**PressTV, 13**

(“Global nuclear conflict between US, Russia, China likely if Iran talks fail,” 11/13, <http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>)

**A global conflict between the US, Russia, and China is likely** in the coming months **should the world powers fail to reach a nuclear deal with Iran, an American analyst says.**¶“If the talks fail, **if the agreements** being pursued **are not successfully** carried forward and **implemented, then there would be enormous international pressure to drive towards a conflict with Iran before** [US President Barack] **Obama leaves office** and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “**The U**nited **S**tates **could find itself on one side and Russia and China on the other and those** are the kinds of **conditions** that can **lead to miscalculation** and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, **we could be facing a global conflict** in the coming months and years **and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons**,” he warned. ¶ The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war.

#### It’s the most probable impact

Beck, 13

(Noah, author of The Last Israelis and writer for The Commentator, "A nuclear Middle East is doomsday", May 28, [www.thecommentator.com/article/3633/a\_nuclear\_middle\_east\_is\_doomsday](http://www.thecommentator.com/article/3633/a_nuclear_middle_east_is_doomsday) NL) \*This evidence has been modified for ableist language. We do not endorse the ableist language of the author

As the Obama administration tries to unbury itself from snowballing scandals, my apocalyptic thriller steadily crawls from fiction to fact. The Middle East is an [risky] insane place. And it's going nuclear. Yet, too many optimists, isolationists, and self-deluded analysts think that rationality will prevail and keep us all safe.¶ Is it rational to take out the organs of a man you just killed and eat them on camera, as a Syrian rebel recently did? How about a senior Palestinian Authority official who recently declared on Lebanese television that the PA would nuke Israel if it had nuclear weapons? Jibril Rajoub, the deputy secretary of the Fatah Central Committee and the chairman of the PA Olympics Committee, apparently doesn’t mind that the nuclear mushroom he wants over Israel would also kill millions of Palestinians, just miles away – the main goal is that Israel be nuked.¶ At best, one can say that there is a “twisted rationality” in the Middle East, as exemplified by Iran’s former president Akbar Hashemi Rafsanjani. In a December 2001 speech, Rafsanjani said, “If one day the Islamic world [acquires nuclear weapons], then the imperialists’ strategy will reach a standstill because the use of even one nuclear bomb inside Israel will destroy everything. However, it will only harm the Islamic world. It is not irrational to contemplate such an eventuality. Jews shall expect to be once again scattered and wandering around the globe the day when this appendix is extracted from the region and the Muslim world.”¶ Despite the above, Rafsanjani is considered such a “moderate” that regime hardliners disqualified him from running in Iran’s presidential election next month. So if Rafsanjani thinks that nuking Israel would be worth a few million Iranians killed by an Israeli retributive nuclear strike, what does that say about the rationality of the current, less “moderate” regime (the one regularly threatening to destroy Israel)?¶ Could the eschatology of Shia Islam further heighten the risk of Armageddon? If the regime under Supreme Leader Ali Hosseini Khamenei genuinely believes that an apocalyptic war will hasten the advent of the Twelfth Imam (the Islamic messiah), doesn’t that make a nuclear first strike on Israel that much more tempting? Scholars may disagree about the potential impact of messianic ideology on nuclear decisions, but the mere possibility that geopolitical conflicts could be viewed through a theological lens hardly adds rationality to the Middle East.¶ To spread its radical ideology, the Iranian Revolutionary Guard finances, trains, and arms some of the world’s most dangerous terrorist organizations: Hezbollah, Hamas, and Islamic Jihad. These organizations are collectively responsible for thousands of deaths from decades of terrorist attacks and wars in Israel, Lebanon, Europe, and Latin America. Iran has also provided support to the Taliban, Iraqi insurgents, and al-Qaeda. And the Islamic Republic supplies Syria with arms, training, and fighters to help President Basher Assad stay in power by massacring his own people every day.¶ If this is how the Iranian regime has behaved without the impunity conferred by a nuclear deterrent, what can be expected of the regime once it has nukes?¶ Equally troubling, if Iran’s large-scale and dispersed nuclear program continues, the regime will be able to produce dozens of nuclear bombs every year. Such massive production only increases the odds of intentional (or unauthorized) nuclear transfers to state or non-state actors, and spurs regional rivals into acquiring or developing a matching nuclear deterrent.¶ Three trends will make a nuclear Middle East even scarier: 1) technological improvements and miniaturization will make it easier to create and transfer small nuclear devices. 2) Climate change will aggravate water scarcity, which will only intensify generational conflicts in the Middle East. 3) Increasing technological interconnectedness will exacerbate sectarianism (as has been the case in Syria, where atrocities from the civil war are constantly recorded on video and shared, only further radicalizing the belligerents).¶ Once Iran has nukes, the potential catastrophes are manifold: a Middle East decimated by a far-reaching Sunni versus Shia conflict (sparked in Syria) and/or by a nuclear war between Israel and Iran; a nuclear arms race among other Mideast countries; the end of the Nuclear Non-Proliferation Treaty; and terrorists who can target major cities with small nuclear devices. However it plays out, oil prices will skyrocket and many will die.¶ The Iranian nuclear threat is the most important global security issue of this generation. To focus public attention on it, I authored [“The Last Israelis”](http://www.thelastisraelis.com/) in a breathless ten weeks, hoping to release the book in time to impact the May 2012 “P5+1” talks in Baghdad, when world powers tried yet again for a diplomatic solution. To continue raising awareness before Iran crosses the nuclear finish line, I just released a second edition, and added paperback and audiobook formats to reach more people with my book’s urgent message.

### Uniq

#### Congress is pushing for new sanctions on Iran now because they don’t trust them—but Obama will hold them off now

Fox, 3/22

("Senate Dems join House in pressing Obama again about final Iran nuclear deal", 3/22/14, [www.foxnews.com/politics/2014/03/22/senate-dems-join-house-in-pressing-obama-again-about-final-iran-nuclear-deal/](http://www.foxnews.com/politics/2014/03/22/senate-dems-join-house-in-pressing-obama-again-about-final-iran-nuclear-deal/) NL)

Senate Democrats are joining House lawmakers in pressing President Obama again on nuclear negotiations with Iran, insisting the president hold Tehran to iron-clad international agreements and keep them apprised of developments including the need for new sanctions.¶ The letter was signed Friday by 23 Democratic senators and is nearly identical to the one recently sent by 216 House Republicans and 179 House Democrats.¶ “As negotiations progress, we expect your administration will continue to keep Congress regularly apprised of the details,” the Senate letter reads. “And because any long-term sanctions relief will require congressional action, we urge you to consult closely with us … so that we can act swiftly to consider additional sanctions.”¶ While lawmakers from both chambers also said they have no desire for military conflict, they argued the United States “must keep all options on the table to prevent this dangerous regime from acquiring nuclear weapons.”¶ The United States and other world leaders reached an interim deal in November with Iran that calls for the rouge country to agree to inspections as it halts or scales back parts of its nuclear program to get below bomb-making capacity, in exchange for the easing of some international sanctions.¶ The White House has since then succeeded in stopping Congress from voting to imposing more sanctions, asking instead for additional time for a diplomatic solution to prevail.¶ "I am convinced that we should only relieve pressure on Iran in return for verifiable concessions that will fundamentally dismantle Iran's nuclear program," committee Chairman Sen. Robert Menendez, D-N.J., said during a Senate hearing last month.¶ However, the July 20 deadline for the temporary deal is fast approaching. And hopes for a final agreement appear to be dwindling now that Russia -- an ally of Iran and a potential go-between in the nuclear talks -- has angered world powers by annexing the Crimea region of Ukraine.¶ The lawmakers expressed support for Obama, calling themselves a “partner” in bringing Iran to the negotiating table. But they warned of Iran’s history of “delay” and “deception.” And they expressed deep concern about that country’s state sponsorship of terrorism, “horrendous” human rights record and its threats against U.S. ally Israel.¶ “We do not seek to deny Iran a peaceful nuclear energy program, but we are gravely concerned that Iran's industrial-scale uranium enrichment capability and heavy water reactor being built … could be used for the development of nuclear weapons,” said the Senate Democrats’ letter, signed by such strong Obama supporters as Michigan’s Carl Levin and Missouri’s Claire McCaskill.¶ The lawmakers called for Tehran to "fully and verifiably" implement its Safeguards Agreement with the International Atomic Energy Agency.¶

### A2 ukraine

#### Ukraine has no impact on Iran talks

Pawlak and Charbonneau, 3/18

(Justyna Pawlak and Louis Charbonneau, Reuters, "Ukraine crisis not seen hurting Iran nuclear talks: EU", 3/18/14, news.yahoo.com/iran-six-powers-seek-nuclear-progress-shadow-ukraine-091619637--sector.html NL)

VIENNA (Reuters) - Iran and six world powers sought on Tuesday to make headway toward resolving their decade-old nuclear dispute, with Western officials expressing hope the talks would not be further complicated by the Ukraine crisis.¶ So far, diplomats said, there is little sign that the worst East-West confrontation since the Cold War would undermine the quest for a deal over Iran's atomic activity and avert the threat of a Middle East war.¶ The March 18-19 meeting between Iran and the powers - the United States, Russia, China, France, Britain and Germany - began a day after Washington and the European Union imposed sanctions on A number of Russian officials over Moscow's takeover of Ukraine's Crimea region.¶ "I haven't seen any negative effect," Michael Mann, a spokesman for EU foreign policy chief Catherine Ashton who coordinates the talks on behalf of the six nations, told reporters. "We continue our work in a unified fashion."¶ But that unity among the powers on Iran may still be tested in the gathering of their chief negotiators on the issue in the Austrian capital Vienna, with the four Western states and Russia at loggerheads over the future of Ukraine.¶ Iran's top nuclear negotiator Abbas Araqchi said that the crisis in Ukraine had so far "no impact" on the talks with major powers.¶ "We also prefer the P5+1 to have a unified approach for the sake of negotiations," he told reporters, adding that the talks were "positive and very good".

**A2: No Israel Strikes**

**Sanctions trigger Israeli strikes and draws in the US**

**Beinart, 1/15**

(Peter, writer for Haaretz, "U.S. Senate sanctions bill is all about torpedoing a nuclear deal with Iran", 1/15/14, [www.haaretz.com/opinion/.premium-1.568762](http://www.haaretz.com/opinion/.premium-1.568762) NL)

Which is precisely the point. Whether its supporters realize it or not, **the** [**sanctions bill**](http://beta.congress.gov/bill/113th/senate-bill/1881/text) **is all about torpedoing a nuclear deal. “If the Government of Israel is compelled to take military action** in legitimate self-defense **against Iran's nuclear weapon program,” it states, “the United States Government should stand with Israel and provide**…diplomatic, **military**, and economic **support.”** Why would a bill ostensibly designed to promote a diplomatic agreement simultaneously pledge American support for an Israeli attack? (**The bill doesn’t even condition U.S. support for an Israeli strike** on diplomatic efforts having failed). And **why should a country as war-weary as the United States offer, ex-ante, to join a third Middle Eastern war?**¶ There’s little reason to believe that many of the 59 senators now backing the Iran sanctions bill have good answers to those questions. It’s up to the American media to ask them now, and thus ensure that, more than a decade after the invasion of Iraq, it is not complicit in another dishonest march to war.

### A2 cia

#### Even if other issues hurt his PC domestically, Obama still controls in the foreign realm

Ziaberi, 1/24­

(Kourosh, interview with Kaveh Afrasiabi, the author of several books on Iran’s foreign policy and a former advisor of Center for Strategic Research, 1/21/14, “Congress New Sanctions Bill Scuttles the Geneva Deal” Iran Review, <http://www.iranreview.org/content/Documents/Congress-New-Sanctions-Bill-Scuttles-the-Geneva-Deal.htm>)

Q: Can we interpret the conflicts and disputes between the White House and the Congress as a power struggle which has manifested itself in the nuclear standoff? Is it that the complexity of the decision-making hierarchy in the United States has resulted in a conflict between the government and the two chambers of the Congress?¶ A: Well, certainly this can be viewed from many different angles, such as the ‘checks’ and balance’ and Congressional role in foreign policy, not to mention traditional party politics. Since the Clinton Administration, Congress has organically inserted itself in the Iran policy and even more so during the “Obama era,” as a result of which White House’s moves on Iran are subject to intense congressional scrutiny. But, given Secretary John Kerry’s long tenure in the Senate, compared to the first Obama administration, I would say that the second Obama administration has a greater sway on Congress’s foreign policy input, otherwise the Geneva deal would not have survived the criticisms.

### A2 obama wont fight

**Obama will fight for his war powers authority**

**Epps, 13**

(Columnist-Atlantic, “Why a Secret Court Won't Solve the Drone-Strike Problem,” The Atlantic, Garrett, http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/)

Professor Stephen I. Vladeck of American University has offered a remedy to this problem. He proposes a statute in which Congress assigns jurisdiction to a specific judicial district, probably the District Court for the District of Columbia. **Congress** in the statute **would strip the executive of such defenses as "state secrets" and "political question.**" Survivors of someone killed in a drone attack could bring a wrongful-death suit. The secret evidence would be reviewed by the judge, government lawyers, and the lawyers for the plaintiff. Those lawyers would have to have security clearance; the evidence would not be shown to the plaintiffs themselves, or to the public. After review of the evidence, the court would rule. If the plaintiffs won, they would receive only symbolic damages--but they'd also get a judgment that the dead person had been killed illegally. It's an elegant plan, and the only one I've seen that would permit us to involve the Article III courts in adjudicating drone attacks. Executive-power hawks would object that courts have no business looking into the president's use of the war power. But Vladeck points out that such after-the-fact review has taken place since at least the Adams administration. "I don't think there's any case that says that how the president uses military force--especially against a U.S. citizen--is not subject to judicial review," he said in an interview. "He may be entitled to some deference and discretion, but not complete immunity." **The real problem** with Vladeck's court **might be political**. I expect that any **president would resist** such a statute as **a dilution of his commander in chief power,** and enactment seems unlikely. Without such a statute, then, systematic review of secret drone killings must come inside the executive branch.

**He’ll have to spend PC on the plan means no PC**

**Samples, 11**

 (10/27/2011, John, director of the Center for Representative Government at CATO “Congress Surrenders the War Powers: Libya, the United Nations, and the Constitution,” <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa687.pdf>))

But political representation has other fac-ets. It has given voice to public dissatisfaction about wars proper and limited wars. Con-gress “has historically been actively engaged in debates over the proper conduct of major military initiatives. It has proposed, publicly debated, and voted on various legislative initiatives to authorize or curtail the use of force.” **Congress** has also held hearings about the conduct of limited and proper wars. 215 Many believe that such **legislative actions** have little effect on the president. Yet such ac-tions can **affect the cost-benefit calculations of the president in pursuing or failing to pur-sue a limited war.** Congress can **raise the costs of a policy by shaping and mobilizing public opinion against a war**, thereby **increasing the cost in political capital a president must pay to sustain a policy.** Congressional actions also signal disunity (or unity) to foreign actors, who in turn act on their expectations, thereby raising the costs of a limited war. Congres-sional actions also affect presidential expec-tations about how the conduct of a war will be received in the legislature; Congress can thus influence presidential policies without directly overturning them. 216 Systematic evi-dence indicates that **since 1945 Congress has been able to influence presidential policies through these means.** 217 Although short of constitutional propriety, congressional voice can matter in war-making.

**Massive Republican opposition to drone courts**

**Muñoz, 13**

(Carlo, Writer for The Hill, "No court for drone oversight, says GOP", February 13, thehill.com/blogs/defcon-hill/policy-and-strategy/282687-no-court-for-drones-says-gop NL)

**Senate Republicans** on Tuesday **ruled out placing armed drone strikes under the authority of a special court, arguing the move would be a dangerous intrusion on presidential power**.¶ Sen. Dianne Feinstein (D-Calif.) last week raised the idea of creating a new oversight court for drones that would be patterned after the checks and balances that govern surveillance.¶ But senior Republicans in the Senate dismissed that plan as unrealistic, and warned it would undermine critical counterterrorism efforts. ¶ “**I think it is a terrible idea,” Sen. Lindsey Graham** (R-S.C.) **told The Hill**.¶ A new court would be “the biggest intrusion ... in the history of [this] country” on the president’s authority as commander in chief, Graham said.¶ The recent release of a white paper that spells out the administration’s rationale for drone attacks against terrorism suspects overseas — including U.S. citizens — has put pressure on both parties to put the operations on firmer ground.¶ Sen. John **McCain** (R-Ariz.) **said the concerns about drone oversight could be resolved by handing the program over to the military**.¶ “You just need to move it to the Department of Defense,” McCain told reporters. “We are talking about using equipment to kill people.” ¶ While “there may be some role to play” for the CIA and the U.S. intelligence community, placing armed drones under the exclusive control of the Pentagon “solves the problem” of balancing oversight with national security, McCain said.¶ Feinstein floated the idea of an oversight court patterned after the Foreign Intelligence and Surveillance Act (FISA) after last week’s confirmation hearing for John Brennan, President Obama’s pick to head the CIA. ¶ Brennan stressed in his public testimony that the administration only authorizes lethal force against U.S. citizens as a “last resort to save lives when there is no other alternative.” ¶ But some lawmakers argue that the drone powers cannot continue to be treated as a presidential prerogative. ¶ FISA established a special federal court to approve surveillance on suspected foreign spies working inside the United States. Feinstein, the chairwoman of the Senate Intelligence Committee, suggested a similar federal court could be created to review possible targets compiled by the CIA for lethal drone attacks.¶ But **the creation of a FISA-like court for drone strikes has been met with fierce resistance from Republicans who say protecting the nation must always come first**. ¶ “**We don’t allow [the judicial branch] to control the commander in chief’s decision to send people into battle,” Graham said**. “Courts are not trained for this. They are not in the targeting business. Who the enemy is composed of and who represents a threat is a military decision, not a criminal decision.”¶ Asked whether he would support McCain’s notion of fully transitioning the program to the Pentagon, Graham replied: “That might make a lot of sense [and] I might be open to that.” ¶ Sen. Chuck **Grassley** (R-Iowa), who was one of several Republicans pushing for the release of the classified legal rulings on drones, **also rejected a court as the wrong approach**. ¶ “There would have to be an analysis other than FISA,” Grassley said. “I am not saying there should not be some curbs on the [administration’s] power over drones, but I do not think it can be a court [system].” ¶ One powerful Democrat said he shares concerns about bureaucratic red tape hampering the president. Senate Armed Services Committee Chairman Carl Levin (D-Mich.) said some kind of “independent review” of the White House counterterrorism program was necessary — but not necessarily involving a judge.¶ “We have got to at least consider some ways ... to have some kind of independent review of the targets,” he said, “[but] I am not sure courts are the right way to do it.”¶ **One problem with a courts-based approach**, according to Levin and Grassley, **is the lengthy review process that comes with it**.¶ Many times, the window of time to take out suspected terror targets via drone strikes is very small. Grassley said a drawn-out review process in the courts could result in U.S. military and intelligence officials missing an opportunity to take out a terror suspect.¶ “In most instances of FISA, you are trying to track people that [pose] an imminent danger, sometime down the road,” Grassley said. “When you are commander in chief, you need to be able to act right now.” ¶ Former Defense Secretary Robert Gates has also questioned the viability of legal reviews of the strikes due to the time constraints inherent to the operations, according to Levin. ¶ Sen. Kelly Ayotte (R-N.H.) suggested the oversight role for the armed drone program can and should fall to Capitol Hill. ¶ “There needs to be more robust congressional oversight of the drone program,” she said, adding the FISA-like court approach “is not workable, in light of how quick you have to move once you find a target.” ¶ For her part, Feinstein said members of the Senate Intelligence and Judiciary panels “really haven’t put anything together [yet]” on a proposal for a FISA-like court for armed drone operations. ¶ “We will look into it, [but] we are trying to get the Brennan nomination done first,” she said.¶ Feinstein’s panel will weigh in on Brennan’s nomination on Thursday. He is expected to clear the committee and be confirmed by the Senate despite the controversy surrounding his role in creating the armed drone program during his time at CIA and in the Obama administration.

**Libertarian hijacking means the plan draws political fire**

**Vladeck, 13**

(Steve, professor of law and the associate dean for scholarship at American University Washington College of Law, "Drones, Domestic Detention, and the Costs of Libertarian Hijacking", March 14, [www.lawfareblog.com/2013/03/drones-domestic-detention-and-the-costs-of-libertarian-hijacking/](http://www.lawfareblog.com/2013/03/drones-domestic-detention-and-the-costs-of-libertarian-hijacking/) NL)

The same thing appears to be happening with **targeted killings**. Whether or not Attorney General Holder’s [second letter to Senator Paul](http://www.washingtonpost.com/blogs/post-politics/files/2013/03/Senator-Rand-Paul-Letter.pdf) actually answered the relevant question, it certainly appeared to mollify the junior Senator from Kentucky, who [declared victory](http://www.washingtonpost.com/opinions/sen-rand-paul-my-filibuster-was-just-the-beginning/2013/03/08/6352d8a8-881b-11e2-9d71-f0feafdd1394_story.html?hpid=z5) and withdrew his opposition to the Brennan nomination immediately upon receiving it. Thus, as with the Feinstein Amendment 15 months ago, the second Holder letter appears to have taken wind out of most of the libertarian critics’ sails, many of whom (including the Twitterverse) have now returned to their regularly scheduled programming. ¶ It seems to me that both of these episodes **represent** examples of what might be called “**libertarian hijacking”**–wherein libertarians form a short-term coalition with progressive Democrats on national security issues, only to pack up and basically go home once they have extracted concessions that don’t actually resolve the real issues. Even worse, in both cases, **such efforts** appeared to **consume** most (if not **all) of the available oxygen and political capital///,** obfuscating, if not downright suppressing, the far more problematic elements of the relevant national security policy. **Thus, even where progressives sought to continue the debate** and/or pursue further legislation on the relevant questions (for an example from the detention context, consider Senator Feinstein’s [Due Process Guarantee Act](http://www.lawfareblog.com/2012/02/some-initial-reflections-on-todays-due-process-guarantee-act-hearing/)), **the putative satisfaction of the libertarian objections** necessarily **arrested any** remaining **political inertia** (as Wells cogently explained in [this post](http://www.lawfareblog.com/2012/11/senator-paul-and-the-due-process-guarantee-act/) on Senator Paul and the DPGA from November).¶ Thus, in the context of detention, the libertarian push to clarify the state of the law with regard to authority for military detention of individuals arrested within the United States both (1) didn’t succeed on its own terms; and (2) obscured what Congress was doing in other cases. After all, recall that the Feinstein Amendment to the FY2012 NDAA [did not actually clarify the state of the law](http://www.lawfareblog.com/2011/12/the-ndaa-the-good-the-bad-and-the-laws-of-war-part-ii/), but rather ended up doing nothing more than codifying the decidedly unclear status quo. At the same time, the rest of the NDAA arguably [expanded the government’s detention authority with regard to non-citizens overseas](http://www.acslaw.org/acsblog/the-war-on-terrorism-congress-never-declared-%E2%80%94-but-soon-might); at a minimum, it codified the expansive understanding of such authority that the D.C. Circuit[had read into](http://www.lawfareblog.com/wp-content/uploads/2011/12/Seton-Hall.pdf) the September 2001 Authorization for the Use of Military Force.¶ Likewise, **in the context of drones, the libertarian push** to clarify the circumstances in which the government can conduct targeted killings even on U.S. soil both (1) left open [important ambiguities concerning when such force actually can be used](http://www.nytimes.com/2013/03/09/opinion/the-drone-question-obama-hasnt-answered.html); and (2) in any event, **took all of the attention away from the pervasive use of such force** against non-citizens overseas (which has resulted, [according to Senator Lindsey Graham](http://www.salon.com/2013/02/21/lindsey_graham_puts_drone_deaths_at_4700/), in as many as 4700 deaths). On the detention front, all of the focus was on a domestic fact pattern of which there have been exactly two actual examples (Padilla and al-Marri), as compared to the thousands of cases overseas. And all of the focus on the drone front has been on a domestic fact pattern of which there have been exactly zero cases, again in contrast to the thousands of cases overseas.