## 1nc TK PIC

#### The United States Congress should eliminate the war powers authority of the President of the United States in the areas of indefinite detention, offensive cyber operations, and introduction of armed forces into hostilities.

#### Hardline TK policies are necessary to solve terrorism – the aff’s a concession that emboldens attacks

James **Phillips 6**, Frmr Research Fellow at the CRS. Senior Research Fellow for Middle Eastern Affairs at Council for Foreign Policy Studies. Bachelor’s in IR from Brown and Master’s in International Security Studies at Tufts, “The Evolving Al-Qaeda Threat,” 17 March 2006, http://www.heritage.org/research/homelandsecurity/hl928.cfm

Al-Qaeda's core group is disciplined, relentless, and fanatical and probably cannot be deterred to any significant degree. They undoubtedly will continue to launch their attacks until they are killed, captured, and decisively defeated. Bin Laden's top lieutenants are cold and rational plotters who will persevere in their efforts despite long periods of adverse conditions because of their strong belief in their eventual triumph. The lust for "martyrdom" that permeates the middle and lower levels of al-Qaeda make those terrorists difficult to deter. Individual suicide bombers, once clasped tightly in al-Qaeda's embrace and brainwashed by a tight circle of zealous associates, are unlikely to be deterred from carrying out their lethal plots. It is easier to discourage potential recruits from joining al-Qaeda than to stop them from attacking once they have been indoctrinated and prepared for what they are persuaded is religious martyrdom. To deter someone from joining, it would be helpful to convince them beforehand that al-Qaeda is fighting a losing battle, that it hurts the Muslim community by its ruthless tactics, and that its long-term goals are unrealistic and even run counter to the interests of most Muslims. The United States can influence perceptions of al-Qaeda's prospects for success by relentlessly hunting down its members and bringing them to justice. But it must rely on Muslim political and religious leaders to drive home the other points. Close cooperation with the intelligence and law enforcement agencies of Muslim governments also can help discourage potential recruits from joining by underscoring that they will face counteraction not just from the United States, but from many other governments. Visible progress in defeating al-Qaeda's forces in Iraq, especially if Sunni nationalist insurgent groups can be turned against al-Qaeda, would go far to deterring young Muslim militants from joining al-Qaeda. Fewer people would want to die in a losing jihad than in one that appears to be on track to victory. As bin Laden himself noted in a candid videotape captured in Afghanistan in late 2001, "When people see a strong horse and a weak horse, by nature they will like the strong horse." The sooner the war in Iraq is turned over to the Iraqi government, the better for the broader war on terrorism. The stream of non-Iraqi recruits attracted to Iraq would diminish over time if potential recruits realized that their primary opponent there is not an army of infidels, but a democratic Iraqi government supported by the majority of Iraq's Sunni Arabs. Another important goal is to deter states from assisting al-Qaeda. The Bush Doctrine, enunciated in the President's September 20, 2001, speech before Congress, warned that "any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime." This tough stance led Pakistan to break with al-Qaeda and Afghanistan's Taliban regime, which it previously had cooperated with against India. The United States also accrued considerable deterrent credibility by subsequent military campaigns that successfully overthrew regimes that harbored terrorists in Afghanistan and Iraq. The demonstration effect of these military campaigns influenced Libya to surrender its WMD and disavow terrorism. And Iran suddenly became very cooperative in freezing its uranium enrichment program in 2003. But the strength of deterrence against Iran apparently has been undermined by the growing Iranian perception that the United States is bogged down in Iraq and Afghanistan. Finally, the U.S. and its allies can deter al-Qaeda terrorists by refusing to give in to their demands. Making concessions under the threat of terrorist attacks only rewards and emboldens terrorists and encourages future attacks. In the long run, suicide bombers will claim fewer victims if the targeted countries stand firm and refuse to appease them.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

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Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities.** Large cities are especially vulnerable **to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device. Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause violent protests in the Muslim world. Series of armed clashing terrorist attacks may follow. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

#### Extinction---equivalent to full-scale nuclear war

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

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

#### New tech breakthroughs make bioterror highly likely – Leads to extinction

Myhrvold 13

Bynathan Myhrvold, former Chief Technology Officer at Microsoft, MA and PhD from Princeton University, he held a postdoctoral fellowship at the University of Cambridge working under Stephen Hawking¶ Strategic Terrorism a Call to Action, The Lawfare Research Paper Series¶ research paper no. 2 – 2013¶ July 2013¶ <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>

¶ As horrible as this would be, such a pandemic is by ¶ no means the worst attack one can imagine, for several ¶ reasons. First, most of the classic bioweapons are based ¶ on 1960s and 1970s technology because the 1972 treaty ¶ halted bioweapons development efforts in the United ¶ states and most other Western countries. Second, the Russians, although solidly committed to biological weapons ¶ long after the treaty deadline, were never on the cutting ¶ edge of biological research. Third and most important, the ¶ science and technology of molecular biology have made ¶ enormous advances, utterly transforming the field in the ¶ last few decades. High school biology students routinely ¶ perform molecular-biology manipulations that would have ¶ been impossible even for the best superpower-funded program back in the heyday of biological-weapons research. ¶ The biowarfare methods of the 1960s and 1970s are now ¶ as antiquated as the lumbering mainframe computers of ¶ that era. tomorrow’s terrorists will have vastly more deadly bugs to choose from.¶ Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal ¶ virus that infects mice (as chickenpox does in humans), ¶ accidentally discovered that a simple genetic modification transformed the virus.10, 11 Instead of producing mild ¶ symptoms, the new virus killed 60% of even those mice ¶ already immune to the naturally occurring strains of ¶ mousepox. The new virus, moreover, was unaffected ¶ by any existing vaccine or antiviral drug. A team of ¶ researchers at Saint Louis University led by mark Buller ¶ picked up on that work and, by late 2003, found a way to ¶ improve on it: Buller’s variation on mousepox was 100% ¶ lethal, although his team of investigators also devised ¶ combination vaccine and antiviral therapies that were ¶ partially effective in protecting animals from the ¶ engineered strain.12, 13 Another saving grace is that ¶ the genetically altered virus is no longer contagious. ¶ of course, it is quite possible that future tinkering ¶ with the virus will change that property, too.¶ Strong reasons exist to believe that the genetic modifications Buller made to mousepox would work for other ¶ poxviruses and possibly for other classes of viruses as well. ¶ Might the same techniques allow chickenpox or another ¶ poxvirus that infects humans to be turned into a 100% lethal bioweapon, perhaps one that is resistant to any known ¶ antiviral therapy? I’ve asked this question of experts many ¶ times, and no one has yet replied that such a manipulation ¶ couldn’t be done.¶ This case is just one example. Many more are pouring out of scientific journals and conferences every year. ¶ Just last year, the journal Nature published a controversial ¶ study done at the University of Wisconsin–madison in ¶ which virologists enumerated the changes one would need ¶ to make to a highly lethal strain of bird flu to make it easily ¶ transmitted from one mammal to another.14¶ Biotechnology is advancing so rapidly that it is hard to keep track of all the new potential threats. Nor is it clear ¶ that anyone is even trying. In addition to lethality and drug ¶ resistance, many other parameters can be played with, ¶ given that the infectious power of an epidemic depends on ¶ many properties, including the length of the latency period ¶ during which a person is contagious but asymptomatic. ¶ Delaying the onset of serious symptoms allows each new ¶ case to spread to more people and thus makes the virus ¶ harder to stop.¶ This dynamic is perhaps best illustrated by HIV, which ¶ is very difficult to transmit compared with smallpox and ¶ many other viruses. Intimate contact is needed, and even¶ then, the infection rate is low. The balancing factor is that ¶ hiv can take years to progress to aids, which can then ¶ take many more years to kill the victim. What makes hiv¶ so dangerous is that infected people have lots of opportunities to infect others. This property has allowed hiv to ¶ claim more than 30 million lives so far, and approximately ¶ 34 million people are now living with this virus and facing ¶ a highly uncertain future.15¶ A virus genetically engineered to infect its host quickly, ¶ to generate symptoms slowly—say, only after weeks or ¶ months—and to spread easily through the air or by casual ¶ contact would be vastly more devastating than hiv. It ¶ could silently penetrate the population to unleash its deadly effects suddenly. This type of epidemic would be almost ¶ impossible to combat because most of the infections would ¶ occur before the epidemic became obvious.¶ A technologically sophisticated terrorist group could develop such a virus and kill a large part of humanity with ¶ it. Indeed, terrorists may not have to develop it themselves: ¶ some scientist may do so first and publish the details.¶ given the rate at which biologists are making discoveries about viruses and the immune system, at some point in ¶ the near future, someone may create artificial pathogens ¶ that could drive the human race to extinction. Indeed, a ¶ detailed species-elimination plan of this nature was openly ¶ proposed in a scientific journal.¶ The ostensible purpose of that particular research was ¶ to suggest a way to extirpate the malaria mosquito, but ¶ similar techniques could be directed toward humans.16 ¶ When I’ve talked to molecular biologists about this method, they are quick to point out that it is slow and easily ¶ detectable and could be fought with biotech remedies. If ¶ you challenge them to come up with improvements to the ¶ suggested attack plan, however, they have plenty of ideas.¶ Modern biotechnology will soon be capable, if it is not ¶ already, of bringing about the demise of the human race—¶ or at least of killing a sufficient number of people to end ¶ high-tech civilization and set humanity back 1,000 years or ¶ more. That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in ¶ mind that it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency ¶ been accessible to so few, so easily. Even more dramatically ¶ than nuclear proliferation, modern biological science has ¶ frighteningly undermined the correlation between the lethality of a weapon and its cost, a fundamentally stabilizing ¶ mechanism throughout history. Access to extremely lethal agents—lethal enough to exterminate Homo sapiens—will be available to anybody with a solid background in biology terrorists included.¶ The 9/11 attacks involved at least four pilots, each of whom had sufficient education to enroll in flight schools and complete several years of training. Bin laden had a degree in civil engineering. Mohammed Atta attended a german university, where he earned a master’s degree in urban ¶ planning—not a field he likely chose for its relevance to ¶ terrorism. A future set of terrorists could just as easily be students of molecular biology who enter their studies innocently enough but later put their skills to homicidal use. ¶ Hundreds of universities in Europe and Asia have curricula sufficient to train people in the skills necessary to make a sophisticated biological weapon, and hundreds more in the ¶ United states accept students from all over the world. ¶ Thus it seems likely that sometime in the near future a ¶ small band of terrorists, or even a single misanthropic individual, will overcome our best defenses and do something ¶ truly terrible, such as fashion a bioweapon that could kill ¶ millions or even billions of people. Indeed, the creation of ¶ such weapons within the next 20 years seems to be a virtual ¶ certainty. The repercussions of their use are hard to estimate. One approach is to look at how the scale of destruction they may cause compares with that of other calamities ¶ that the human race has faced.

#### Cold war deterrence and containment logic is key to preventing terrorist attacks

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Christoph, 2008, “Terror and War” in Justifying War?: From Humanitarian Intervention to Counterterrorism p. 135-7 \*modified for gendered language

Yet the difficulty of localizing the enemy is inherent in the war on terror. It is still a war, a war of our day and age. Those who dispute the definition should recognize that there are real advantages in recognizing it as such. After all, past war experience has produced a large body of concepts that may now help to manage the new types of war in which states no longer fight other states but hostile and powerful private organizations. ¶ . Thus the in concepts burnished the cold war turn out to be astonishingly useful for dealing with the war against terrorists. Instead of destroying the enemy's forces in combat, the best cold war strategy proved to be that of influencing the opponent's willingness not to use force, through deterrence and containment, and to encourage his[/her] inclination for cooperation through detente. Alliances, the solidarity of a large number of countries standing together against a common danger, played a central role in this strategy. ¶ Each one of these concepts can be applied in one way or the other to the war against terrorists-although the currently dominant school of thought, as articulated by the Bush Administration and not openly challenged by America's allies, holds otherwise. Deterrence is dismissed as ineffective against terrorists with the argument that it is Ineffective against suicide-bombers, the last link of the chain of command. But deterrence in the cold war, too, would probably have been ineffective against the captain of a Soviet missile submarine preordered to attack when reaching a specific position off the U.S. Atlantic coast. It did, however, work remarkably well against those giving that order in the ¶ first place, the political and military leadership. That leadership-on both sides-bent over backward to avoid a nuclear showdown, even, as the records show, when false alarms had suggested an imminent attack from the other side! ¶ Why then should deterrence not work against those giving the orders to the suicide-bombers? There is little doubt that threat of military reprisal works against states supporting terrorist activities from their soil; none want to find themselves in the position of the Taliban. (Another reason why the claim by no less an authority than the U.S. Vice President Cheney, that the Iraqi leader Saddam Hussein had promoted terrorist plans against the United States, lacks credibility). Israel, through the selective killing of radical leaders, may have contravened basic rules of law, but has nevertheless been able to reduce the number of suicide-operations. It may be true that terrorist leaders are imbued with a total disregard for human life-"we are willing to die and you want to live," the slogan runs in many of their communiques. But that disregard applies to their victims and the bombwired youngsters they send out against them, it does not extend to them. They want to live, if only in order to remain in control of their operation, they can therefore be deterred. Deterrence in the war against terrorists is, after all, much more credible than in the cold war; the threat to take action against a state supporting terrorists or a terrorist operation does not suffer from the credibility-deficit of nuclear deterrence: The "deterrer" does not have to fear that the "deteree" will respond by blowing up the world. ¶ But then the spurious dismissal of deterrence stems Jess from the nature of terrorism than from the eagerness to justify preventive action, called "preemption" in President Bush's National Security Strategy. The United States, overconfident in its power, was determined to remove all restrictions on its use. To examine alternatives to military intervention seemed a waste of time then. By now, with the experience of Iraq in the American public conscience, it should no longer be so. ¶ Not only the concept of deterrence-the French term "dissuasion" is probably more appropriate for the new wars-but also that of containment, its cold war sister, applies against terrorists. The concept is both ancient and simple: the enemy is deprived of success not through physical annihilation but through effective Countermeasures. ¶ That it can work in the War against terrorists is demonstrated by the fact that since 9/11 no Al Qaeda attack against United States territory has occurred and only two-the train killings in Madrid on March 11, 2004 and the July 2005 attacks in London-on the soil of a European U.S. ally. This has not been for lack of trying on the part of Al Qaeda or similar groups, but due to effective action by state authorities, which have made those kinds of attacks much more difficult to plan and to implement. Thus, containment can work and has worked. Another example, this time visible not just in results but also in physical preparations, is provided by Israel's metal fence stopping physical access to Israeli territory for Palestinians. While the legality of this measure under international and humanitarian law may be in doubt, the results in terms of effective containment speak for themselves.

## 1nc Flex

#### Obama’s Syria move signals maximized executive war powers

Posner 9/3

Eric, professor at the University of Chicago Law School, Obama Is Only Making His War Powers Mightier, Slate, 9/3/13, http://www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever.¶ It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”¶ Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.¶ The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.)¶ People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.¶ This approach also empowers the president relative to Congress by giving him the ability to embarrass members of Congress when he wants to. Just ask Hillary Clinton, whose vote in favor of the 2003 Iraq War damaged her chances against Barack Obama in 2008, and the Democratic senators who could not enter the 1992 campaign for the presidency because their votes against the 1991 Iraq War rendered them unelectable. The best thing for individual members of Congress is to be able to carp on the sidelines—to complain about not being consulted and to blame the president if the war goes badly. That is why David Axelrod said, “Congress is now the dog that caught the car.” This is hardball politics, not a rediscovery of legal values.

#### Restraints undermine the speed of response and presidential flexibility

Posner and Vermeule 7

Eric, Kirkland and Ellis Professor of Law at the University of Chicago Law School, and Adrian, professor at Harvard Law School, Terror in the Balance: Security, Liberty, and the Courts p. 170

A requirement of ex post statutory authorization thus seems more plausible than the ex ante statutory framework approach, but it does not seem better than the judicial deference approach. As we discussed in chapter 1, the involvement of Congress produces costs as well as benefits. On the cost side, congressional deliberation is slow and unsuited for emergencies. Congress has trouble keeping secrets and is always vulnerable to obstruction at the behest of members of Congress who place the interests of their constituents ahead of those of the nation as a whole. It is implicitly for these reasons that Ackerman gives the president the freedom to act unilaterally at the start of the emergency. But there is no reason to think that the problem of congressional obstruction and inefficiency will decline over time.¶ What are the benefits of congressional involvement? One possible benefit is that Congress has technical information about the advantages and disadvantages of various security measures and, relying on this information, will be able to block poorly considered security measures. But it is doubtful that Congress’s information is better than the executive branch’s, and in any event Congress can share this information with the executive branch if necessary. The modern national security system deprives Congress of useful information about threats to national security, and Congress by necessity must play a passive role.¶ The main possible benefit from congressional involvement is that Congress can prevent the executive from using the emergency as an opportunity to engage in self-aggrandizement, to obtain new powers, and to entrench them so that the executive will be more powerful even after the emergency ends. As we argued in chapter 1, however, it is not at all clear that executive aggrandizement during emergencies is a problem, and even if it is, congressional involvement might make things worse, not better. The value of congressional authorization is ambiguous as a theoretical matter. It slows down executive action, which is costly during emergencies, but may (or may not) block efforts by the executive to aggrandize its power. We also argued in chapter 1 that the historical evidence suggests that Congress is too weak an institution, during emergencies, to provide the asserted benefits. Congress defers to the executive during emergencies because it agrees that the executive alone has the information and the means necessary to respond to imminent threats. The added risk of executive abuse is a cost that Congress and voters have been willing to bear.

#### Nuclear war

Kagan and O’Hanlon 07

Frederick and Michael, resident scholar at AEI and senior fellow in foreign policy at Brookings, The Case for Larger Ground Forces, April, http://www.aei.org/files/2007/04/24/20070424\_Kagan20070424.pdf

We live at a time when wars not only rage¶ in nearly every region but threaten to¶ erupt in many places where the current¶ relative calm is tenuous. To view this as a strategic¶ military challenge for the United States is not to¶ espouse a specific theory of America’s role in the¶ world or a certain political philosophy. Such an¶ assessment flows directly from the basic bipartisan view of American foreign policy makers since¶ World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the¶ international system is essential to American¶ peace and prosperity, and that no country besides¶ the United States is in a position to lead the way¶ in countering major challenges to the global order.¶ Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the¶ world such as the Persian Gulf and East Asia, or¶ key potential threats to American security, such¶ as the spread of nuclear weapons and the¶ strengthening of the global Al Qaeda/jihadist¶ movement. The Iranian government has rejected¶ a series of international demands to halt its¶ efforts at enriching uranium and submit to international inspections. What will happen if the¶ US—or Israeli—government becomes convinced¶ that Tehran is on the verge of fielding a nuclear¶ weapon? North Korea, of course, has already¶ done so, and the ripple effects are beginning to¶ spread. Japan’s recent election to supreme power¶ of a leader who has promised to rewrite that¶ country’s constitution to support increased armed¶ forces—and, possibly, even nuclear weapons—¶ may well alter the delicate balance of fear in¶ Northeast Asia fundamentally and rapidly. Also,¶ in the background, at least for now, Sino-Taiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and¶ Afghanistan, Venezuela and the United States,¶ and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe¶ to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on¶ offer, the bloodletting will probably, tragically,¶ continue unabated.¶ And as bad as things are in Iraq today, they could¶ get worse. What would happen if the key Shiite¶ figure, Ali al Sistani, were to die? If another¶ major attack on the scale of the Golden Mosque¶ bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly¶ was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is¶ somewhat more stable for the moment,¶ although a major Taliban offensive appears to¶ be in the offing.¶ Sound US grand strategy must proceed from¶ the recognition that, over the next few years¶ and decades, the world is going to be a very¶ unsettled and quite dangerous place, with Al¶ Qaeda and its associated groups as a subset of¶ a much larger set of worries. The only serious¶ response to this international environment is¶ to develop armed forces capable of protecting¶ America’s vital interests throughout this dangerous time. Doing so requires a military capable of a wide range of missions—including not¶ only deterrence of great power conflict in dealing with potential hotspots in Korea, the¶ Taiwan Strait, and the Persian Gulf but also¶ associated with a variety of Special Forces¶ activities and stabilization operations. For¶ today’s US military, which already excels at¶ high technology and is increasingly focused on¶ re-learning the lost art of counterinsurgency,¶ this is first and foremost a question of finding¶ the resources to field a large-enough standing¶ Army and Marine Corps to handle personnel intensive missions such as the ones now under¶ way in Iraq and Afghanistan.

## 1nc CIR

#### Immigration will pass – Obama PC is key

Lopez 1/1

Oscar, Latin Times, New Year 2014: 4 Reasons Immigration Reform Will Pass In 2014, 1/1/14, http://www.latintimes.com/new-year-2014-4-reasons-immigration-reform-will-pass-2014-141778

4. Leadership: As immigration reform comes to the fore, party leaders will step up in 2014 to ensure change is achieved. While President Obama has made clear his support for comprehensive reform, House Speaker John Boehner previously stated that he had “no intention” of negotiating with the Senate on their comprehensive immigration bill. ¶ However, towards the end of 2013, it seemed that Representative Boehner was changing his tune. In November, President Obama revealed that “the good news is, just this past week Speaker Boehner said that he is “hopeful we can make progress” on immigration reform.” As if to prove the point, Boehner has recently hired top aide Rebecca Tallent to work on immigration reform.¶ With bipartisan leadership firmly focused on immigration reform and party members on both sides realizing the political importance of the issue, comprehensive legislation is one thing we can be sure of in 2014.

#### Limitations on war powers sap political capital

Kriner ‘10

Douglas L., assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, pages 68-69

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

#### Reform key to competitiveness and growth

Trujillo and Melgoza 13

Mr. Trujillo is chairman of the Trujillo Group, LLC and co-chairman of the Latino Donor Collaborative. Mr. Melgoza is the CEO of Geoscape International Inc. The Economic—and Demographic—Case for Immigration Reform, 2/21/13, http://online.wsj.com/article/SB10001424127887323951904578290471589119346.html?mod=googlenews\_wsj

Since the November election, there has been much talk in Washington and on the pundit circuit about America's changing demographics, especially the "Latino vote" and the new realities of political campaigning. There has also been considerable wrangling over immigration and what it means for a country that is a nation of immigrants but is more crowded than it once was.¶ The immigration debate is significant to America's politics and culture, but it is also crucial to the country's economics, a subject that receives too little attention. Let's be blunt: The future wealth and well-being of the American people—the country's economic security, national security, business innovation, GDP growth and status in the global marketplace—require a comprehensive solution to the chronic problems caused by a broken immigration policy. In particular, the status of 11 million unauthorized Latino immigrants now living here must be resolved.¶ The economics are simple: Latinos spur demand. Seventy percent of the nation's gross domestic product is fueled by consumer spending. That means the Latino population—large, growing and increasingly prosperous—will play a key role in America's economic future.¶ Latinos are now by far the country's biggest minority-market segment. Including unauthorized residents, the Latino population now exceeds 54 million (not counting nearly four million in Puerto Rico). Blacks, in second place, number 39 million. The Latino population has increased by more than 52% since 2000. In the same period, the non-Latino white population grew less than 2% and blacks by 14%.¶ According to U.S. Census forecasts, the Latino population in America will reach 133 million by 2050. Those 133 million American Latinos will outnumber the populations of Japan and Russia, whose numbers are already in decline.¶ With growing numbers comes more spending: Latino purchasing power now exceeds $1.2 trillion and, according to the University of Georgia's Selig Center, will top $1.5 trillion by 2015. From a global perspective, that means America's Latino market would be the 11th-largest economy in the world—just below France, Italy and Mexico, and above South Korea, Spain and Indonesia. At $20,400 per capita, Latino America's purchasing power already exceeds the GDP per capita of all four BRIC countries—Brazil, Russia, India and China.¶ But Latinos' beneficial economic effect is hardly restricted to the demand side. A vital element of supply-side health is labor—workers, from the most talented who invent new products or start a business, to those just beginning to climb the ladder of self-improvement, whether through formal education or on-the-job training.¶ Nearly one in six American workers (16%) is Latino, with nearly 23 million Latinos in the U.S. holding jobs. You might not know it from media coverage of immigration issues, but Latinos have the highest labor-force participation rate (nearly 67%) of any American demographic group.¶ Slightly more than a quarter of children in the U.S. under age 18 are Latino. Based on existing trends, at least 1.1 million Latino youths will turn 18 each year for the next 20 years. Politicians may see 1.1 million new voters a year, but business owners see 1.1 million new workers with a strong work ethic. Given the aging of the country's baby boom generation—retiring at the rate of 10,000 a day for the next 18 years—the strength of the economy is increasingly linked to the promise of these younger workers.¶ Dire demographics threaten the economies in many developed nations, and the U.S. is not immune to the challenges posed by an aging population. But the problem will be considerably mitigated by immigrants who revitalize the workforce. The average later-life American, whose life expectancy nearly doubled during the 20th century, is already asking: Who is going to pay for the Social Security and Medicare promises of the federal government?¶ The answer: America's expanding, youthful immigrant population—another reason why ensuring educational opportunities at every level for all residents is in the national interest.¶ Getting the U.S. economy moving again requires action on many fronts: tax and regulatory reform, new approaches to energy, education and health care. But nothing is more important than immigration reform. Despite the impression left by much of the rhetoric in Washington, immigration reform is not just about politics. It's about jobs, growth and competitiveness—economic security, which in turn means national security.¶ To achieve these benefits, immigration policies and practices must be attuned to welcoming hardworking immigrants and to dealing fairly and smartly with those who are already in the U.S. regardless of their legal status. Legal immigration, including a guest-worker program that will bolster American business productivity, should be expanded in an intelligent way that is pro-investment and pro-growth. U.S. borders need to be secured against further illegal immigration.¶ Washington must send a clear signal—to the American people and to every level of government—that a coherent and enforceable immigration policy is in place and here to stay.

#### Nuclear war

Friedberg and Schoenfeld 8

Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America” <http://online.wsj.com/article/SB122455074012352571.html>

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

## 1nc Kappeler

#### Focusing on mega-spheres of political action displaces personal responsibility for violence

Kappeler 95 (Susanne, Associate Professor at Al-Akhawayn University, “The Will to Violence: The Politics of Personal Behavior”, Pg.10-11)

Yet our insight that indeed we are not responsible for the decisions of a Serbian general or a Croatian president tends to mislead us into thinking that therefore we have no responsibility at all, not even for forming our own judgment, and thus into underrating the responsibility we do have within our own sphere of action. In particular, it seems to absolve us from having to try to see any relation between our own actions and those events, or to recognize the connections between those political decisions and our own personal decisions. It not only shows that we participate in what Beck calls ‘organized irresponsibility’, upholding the apparent lack of connection between bureaucratically, institutionally, nationally, and also individually organized separate competences. It also proves the phenomenal and unquestioned alliance of our personal thinking with the thinking of the major power mongers. For we tend to think that we cannot ‘do’ anything, say, about a war, because we deem ourselves to be in the wrong situation because we are not where the major decisions are made. Which is why many of those not yet entirely disillusioned with politics tend to engage in a form of mental deputy politics, in the style of ‘what would I do if I were the general, the prime minister, the president, the foreign minister or the minister of defense?’ Since we seem to regard their mega spheres of action as the only worthwhile and truly effective ones, and since our political analyses tend to dwell there first of all, any question of what I would do if I were indeed myself tends to peter out in the comparative insignificance of having what is perceived as ‘virtually no possibilities’: what I could do seems petty and futile. For my own action I obviously desire the range of action of a general, a prime minister, or a General Secretary of the UN – finding expression in ever more prevalent formulations like ‘I want to stop this war’, ‘I want military intervention’, ‘I want to stop this backlash’, or ‘I want a moral revolution. ‘We are this war’, however, even if we do not command the troops or participate in co-called peace talks, namely as Drakulic says, in our non-comprehension’: our willed refusal to feel responsible for our own thinking and for working out our own understanding, preferring innocently to drift along the ideological current of prefabricated arguments or less than innocently taking advantage of the advantages these offer. And we ‘are’ the war in our ‘unconscious cruelty towards you’, our tolerance of the ‘fact that you have a yellow form for refugees and I don’t’- our readiness, in other words, to build identities, one for ourselves and one for refugees, one of our own and one for the ‘others.’ We share in the responsibility for this war and its violence in the way we let them grow inside us, that is, in the way we shape ‘our feelings, our relationships, our values’ according to the structures and the values of war and violence.

#### The 1ac represents violence as an inevitable result of circumstance – This ignores personal decision making and makes their impacts inevitable

Kappeler 95 (Susanne, Associate Professor at Al-Akhawayn University, “The Will to Violence: The Politics of Personal Behavior”, Pg.2-4)

However, under the pressure of mainstream science and a sociological perspective which increasingly dominates our thinking, it is becoming standard to argue as if it were these power relations which cause violence. Underlying is a behaviorist model which prefers to see human action as the exclusive product of circumstances, ignoring the personal decision of the agent to act, implying in turn that circumstances virtually dictate certain forms of behavior. Even though we would probably not underwrite these propositions in their crass form, there is nevertheless a growing tendency, not just in social science, to explain violent behavior by its circumstances. (Compare the question, ‘Does Pornography cause violence?’) The circumstances identified may differ according to the politics of the explainers, but the method of explanation remains the same. While consideration of mitigating circumstances has its rightful place in a court of law trying (and defending) an offender, this does not automatically make it an adequate or sufficient practice for political analysis. It begs the question, in particular, ‘what is considered to be part of the circumstances (and by whom?)’ Thus in the case of sexual offenders, there is a routine search- on the part of the tabloid press or the professionals of violence- for experiences of violence in the offender’s own past, and understanding which is rapidly solidifying in the scientific model of a ‘cycle of violence’. That is, the relevant factors are sought in the distant past and in other contexts of action, while a crucial in the present context is ignored, namely the agent’s decision to act as he did. Even politically oppositional groups are not immune to this mainstream sociologizing, some left groups have tried to explain men’s sexual violence as the result of class oppression, while some black theoreticians have explained the violence of Black men as the result of racist oppression. The ostensible aim of these arguments may be to draw attention to the pervasive and structural violence of classism and racism, yet they not only fail to combat such inequality, they actively contribute to it. Although such oppression is a very real part of an agent’s life context, these ‘explanations’ ignore the fact that not everyone experiencing the same oppression uses violence, that is, that these circumstances do not ‘cause’ violent behavior. They overlook, in other words, that the perpetrator has decided to violate, even if this decision was made in circumstances of limited choice. To overlook this decision, however is itself a political decision, serving particular interests. In the first instance it serves to exonerate the perpetrators, whose responsibility is thus transferred to circumstances and a history for which other people (who remain beyond reach) are responsible. Moreover, it helps to stigmatize all those living in poverty and oppression; because they are obvious victims of violence and oppression, they are held to be potential perpetrators themselves. This slanders all the women who have experienced sexual violence, yet do not use violence against others, and libels those experiencing racist and class oppression, yet do not necessarily act out violence. Far from supporting those oppressed by classist, racist or sexist oppression, it sells out these entire groups in the interest of exonerating individuals members. It is a version of collective victim-blaming, of stigmatizing entire social strata as potential hotbeds of violence, which rests on and perpetuates the mainstream division of society into so-called marginal groups-the classic clienteles of social work and care politics (and of police repression) – and an implied ‘centre’ to which all the speakers, explainers, researchers and careers themselves belong, and which we are to assume to be a zone of non-violence. Explaining people’s violent behavior by their circumstances also has the advantage of implying that the ‘solution’ lies in a change of circumstances. Thus it has become fashionable among socially minded politicians and intellectuals in Germany to argue that rising neo-Nazi violence of young people (men), especially in former East Germany, needs to be countered by combating poverty and unemployment in these areas. Likewise anti-racist groups like the Anti-Racist alliance or the Anti-Nazi League in Britain argue that ‘the causes of racism, like poverty and unemployment, should be tackled’ and that it is ‘problems like unemployment and bad housing which lead to racism. Besides being no explanation at all of why white poverty and unemployment should lead specifically to racist violence (and what would explain middle- and upper-class racism), it is more than questionable to combat poverty only (but precisely) when and where violence is exercised. It not only legitimates the violence (by explaining it) but constitutes an incentive to violence, confirming that social problems will be taken seriously when and where ‘they’ attract attention by means of violence- just as the most unruly children in schools (mostly boys) tend to get more attention from teachers than well-behaved and quiet children (mostly girls.) Thus if German neo-Nazi youths and youth groups, since their murderous assaults on refugees and migrants in Hoyerswerda, Rostock, Dresden etc., are treated to special youth projects and social care measures (to the tune of DM 20 million per year), including ‘educative’ trips to Morocco and Israel, this is an unmistakable sign to society that racist violence does indeed ‘pay off.’

#### The terminal impact is extinction

Beres 94 (Louis Rene, Professor of International Law in the Department of Political Science at Purdue University, Spring, Arizona Journal of International and Comparative Law, Lexis)

This, then, is an altogether different kind of understanding. Rather than rescue humankind by freeing individuals from fear of death, this perspective recommends educating people to the truth of an incontestable relationship between death and geopolitics. By surrendering ourselves to States and to traditional views of self-determination, we encourage not immortality but premature and predictable extinction. It is a relationship that can, and must, be more widely understood. There are great ironies involved. Although the corrosive calculus of geopolitics has now made possible the deliberate killing of all life, populations all over the planet turn increasingly to States for security. It is the dreadful ingenuity of States that makes possible death in the billions, but it is in the expressions of that ingenuity that people seek safety. Indeed, as the threat of nuclear annihilation looms even after the Cold War, n71 the citizens of conflicting States reaffirm their segmented loyalties, moved by the persistent unreason that is, after all, the most indelible badge of modern humankind.

#### The alternative is to take personal responsibility for the affirmative impacts

Kappeler 95 (Susanne, Associate Professor at Al-Akhawayn University, “The Will to Violence: The Politics of Personal Behavior”, Pg.5-6)

A politics aiming at a change in people’s behavior would require political work that is very much more cumbersome and very much less promising of success than is the use of state power and social control. It would require political consciousness-raising- politicizing the way we think- which cannot be imposed on others by force or compulsory educational measures. It would require a view of people which takes seriously and reckons with their will, both their will to violence or their will to change. To take seriously the will of others however would mean recognizing one’s own, and putting people’s will, including our own, at the centre of political reflection. A political analysis of violence needs to recognize this will, the personal decision in favor of violence- not just to describe acts of violence, or the conditions which enable them to take place, but also to capture the moment of decision which is the real impetus for violent action. For without this decision there will be no violent act, not even in circumstances which potentially permit it. It is the decision to violate, not just the act itself, which make a person a perpetrator of violence-just as it is the decision not to do so which makes people not act violently and not abuse their power in a situation which would nevertheless permit it. This moment of decision, therefore, is also the locus of potential resistance to violence. To understand the structures of thinking and the criteria by which such decisions are reached, but above all to regard this decision as an act of choice, seems to me a necessary precondition for any political struggle against violence and for a non-violent society.

## Advantage

### AT Unfettered Executive

#### Executive use of force is restrained

Weiner 7

Weiner, Vanderbilt JD candidate, 2007

(Michael, “A Paper Tiger with Bite: A Defense of the War Powers Resolution”, <http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Weiner.pdf>)

CONCLUSION: THE EXONERATED WPR AND THE WOLF IN SHEEP'S CLOTHING The WPR is an effective piece of war powers legislation. As Part III made clear, no presidential unilateral use of force since 1973 has developed into a conflict that in any way resembles the WPR's impetus, Vietnam. Rather, the great majority of these conflicts have been characterized by their brevity, safety, and downright success. Yes, there have been tragic outcomes in Lebanon and Somalia; but what happened in response to those tragedies? In Lebanon, President Reagan actually submitted to being Congress's "messenger boy," 203 asking for its permission, per the WPR, to continue the operation. And in Somalia, at the first sight of a looming disaster, it was President Clinton who cut short the operation. Thus, from 1973 on, it is easy to argue that sitting Executives have made responsible use of their power to act unilaterally in the foreign affairs realm.

#### No impact uniqueness – world getting better now their miltarism is peaceful

Busby 12 – Assistant Professor of Public Affairs and a fellow in the RGK Center for Philanthropy and Community Service as well as a Crook Distinguished Scholar at the Robert S. Strauss Center for International Security and Law

Josh, 1-3-12, “Get Real! Chicago IR guys out in force” http://duckofminerva.blogspot.com/2012/01/get-real-chicago-ir-guys-out-in-force.html

Is Unipolarity Peaceful? As evidence, Monteiro provides metrics of the number of years during which great powers have been at war. For the unipolar era since the end of the Cold War, the United States has been at war 13 of those 22 years or 59% (see his Table 2 below). Now, I've been following some of the discussion by and about Steven Pinker and Joshua Goldstein's [work](http://www.nytimes.com/2011/12/18/opinion/sunday/war-really-is-going-out-of-style.html?pagewanted=all) that suggests the world is becoming more peaceful with interstate wars and intrastate wars becoming more rare. I was struck by the graphic that Pinker used in a Wall Street Journal [piece](http://online.wsj.com/article/SB10001424053111904106704576583203589408180.html) back in September that drew on the Uppsala Conflict Data, which shows a steep decline in the number of deaths per 100,000 people. How do we square this account by Monteiro of a unipolar world that is not peaceful (with the U.S. at war during this period in Iraq twice, Afghanistan, Kosovo) and Pinker's account which suggests declining violence in the contemporary period? Where Pinker is focused on systemic outcomes, Monteiro's measure merely reflect years during which the great powers are at war. Under unipolarity, there is only one great power so the measure is partial and not systemic. However, Monteiro's theory aims to be systemic rather than partial. In critiquing Wohlforth's early work on unipolarity stability, Monteiro notes: 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 (17). So presumably, **a more adequate test of the peacefulness or not of unipolarity** (at least for Monteiro) is not the number of years the great power has been at war **but whether the system as a whole is becoming more peaceful under unipolarity compared** to previous eras, including wars between major and minor powers or wars between minor powers and whether the wars that do happen are as violent as the ones that came before. Now, as Ross Douthat pointed [out](http://douthat.blogs.nytimes.com/2011/10/17/steven-pinkers-history-of-violence/), Pinker's argument isn't based on a logic of benign hegemony. It could be that even if the present era is more peaceful, unipolarity has nothing to do with it. Moreover, Pinker may be wrong. Maybe the world isn't all that peaceful. I keep thinking about the places I don't want to go to anymore because they are violent (Mexico, Honduras, El Salvador, Nigeria, Pakistan, etc.) As Tyler Cowen [noted](http://marginalrevolution.com/marginalrevolution/2011/10/steven-pinker-on-violence.html), the measure Pinker uses to suggest violence is a per capita one, which doesn't get at the absolute level of violence perpetrated in an era of a greater world population. **But, if my read of other** [**reports**](http://www.hsrgroup.org/human-security-reports/20092010/graphs-and-tables.aspx) **based on Uppsala data is right, war is becoming more rare and less deadly** (though later [data](http://www.pcr.uu.se/research/ucdp/charts_and_graphs/) suggests lower level armed conflict may be increasing again since the mid-2000s). The apparent violence of the contemporary era may be something of a presentist bias and reflect our own lived experience and the ubiquity of news media .Even if the U.S. has been at war for the better part of unipolarity, the deadliness is declining, even compared with Vietnam, let alone World War II. Does Unipolarity Drive Conflict? So, I kind of took issue with the Monteiro's premise that unipolarity is not peaceful. What about his argument that unipolarity drives conflict? Monteiro suggests that the unipole has three available strategies - defensive dominance, offensive dominance and disengagement - though is less likely to use the third. Like Rosato and Schuessler, Monteiro suggests because other states cannot trust the intentions of other states, namely the unipole, that minor states won't merely bandwagon with the unipole. Some "recalcitrant" minor powers will attempt to see what they can get away with and try to build up their capabilities. As an aside, in Rosato and Schuessler world, unless these are located in strategically important areas (i.e. places where there is oil), then the unipole (the United States) should disengage. In Monteiro's world, disengagement would inexorably lead to instability and draw in the U.S. again (though I'm not sure this necessarily follows), but neither defensive or offensive dominance offer much possibility for peace either since it is U.S. power in and of itself that makes other states insecure, even though they can't balance against it.

### AT: Endless War

#### No risk of endless war

Gray 7—Director of the Centre for Strategic Studies and Professor of International Relations and Strategic Studies at the University of Reading, graduate of the Universities of Manchester and Oxford, Founder and Senior Associate to the National Institute for Public Policy, formerly with the International Institute for Strategic Studies and the Hudson Institute (Colin, July, “The Implications of Preemptive and Preventive War Doctrines: A Reconsideration”, <http://www.ciaonet.org/wps/ssi10561/ssi10561.pdf>)

7. A policy that favors preventive warfare expresses a futile quest for absolute security. It could do so. Most controversial policies contain within them the possibility of misuse. In the hands of a paranoid or boundlessly ambitious political leader, prevention could be a policy for endless warfare. However, the American political system, with its checks and balances, was designed explicitly for the purpose of constraining the executive from excessive folly. Both the Vietnam and the contemporary Iraqi experiences reveal clearly that although the conduct of war is an executive prerogative, in practice that authority is disciplined by public attitudes. Clausewitz made this point superbly with his designation of the passion, the sentiments, of the people as a vital component of his trinitarian theory of war. 51 It is true to claim that power can be, and indeed is often, abused, both personally and nationally. It is possible that a state could acquire a taste for the apparent swift decisiveness of preventive warfare and overuse the option. One might argue that the easy success achieved against Taliban Afghanistan in 2001, provided fuel for the urge to seek a similarly rapid success against Saddam Hussein’s Iraq. In other words, the delights of military success can be habit forming. On balance, claim seven is not persuasive, though it certainly contains a germ of truth. A country with unmatched wealth and power, unused to physical insecurity at home—notwithstanding 42 years of nuclear danger, and a high level of gun crime—is vulnerable to demands for policies that supposedly can restore security. But we ought not to endorse the argument that the United States should eschew the preventive war option because it could lead to a futile, endless search for absolute security. One might as well argue that the United States should adopt a defense policy and develop capabilities shaped strictly for homeland security approached in a narrowly geographical sense. Since a president might misuse a military instrument that had a global reach, why not deny the White House even the possibility of such misuse? In other words, constrain policy ends by limiting policy’s military means. This argument has circulated for many decades and, it must be admitted, it does have a certain elementary logic. It is the opinion of this enquiry, however, that the claim that a policy which includes the preventive option might lead to a search for total security is not at all convincing. Of course, folly in high places is always possible, which is one of the many reasons why popular democracy is the superior form of government. It would be absurd to permit the fear of a futile and dangerous quest for absolute security to preclude prevention as a policy option. Despite its absurdity, this rhetorical charge against prevention is a stock favorite among prevention’s critics. It should be recognized and dismissed for what it is, a debating point with little pragmatic merit. And strategy, though not always policy, must be nothing if not pragmatic.

### Turn

#### Ex ante congressional authorization INCREASES adventurism and risky wars – no risk of offense because congress will defer to the president and plan decreases squo political cost deterrent

Nzelibe 7

Jide, “Are congressionally authorized wars perverse?” Stanford Law Review. 59.4 (Feb. 2007): p907//mtc

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

### Generic

#### Congress first approach doesn’t solve any of their internal links – zero empirical support

Nzelibe and Yoo 5

Jide and Jon, “Rational War and Constitutional Design” [http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1067&context=facpubs&sei-redir=1&referer=http%3A%2F%2Fscholar.google.com%2Fscholar%3Fstart%3D30%26q%3Dcongress%2B%2522declare%2Bwar%2522%26hl%3Den%26as\_sdt%3D0%2C5%26as\_ylo%3D2000%26as\_yhi%3D2014#search=%22congress%20declare%20war%22] 115 Y ale L . J . 2512 //mtc

But before accepting this seemingly attractive vision, we should ask whether the Congress-first system lives up to its promises. In other words, has requiring congressional ex ante approval for foreign wars produced less war, better decision-making, or greater consensus? A cursory review of previous American wars does not suggest that requiring congressional authorization before the use of force invariably produces better decision-making. For example, the declarations of war initiating the Mexican-American and Spanish- American Wars did not result from extensive deliberation or necessarily result in good policy. 3 Although both wars benefited the United States by expanding the nation's territory and enhancing its presence on the world stage, 1 4 they remained offensive wars of conquest. Nor is it clear that congressional participation has resulted in greater consensus. Congress approved both the Vietnam and the 2003 Iraq Wars, but both have produced sharp divisions in American domestic politics.¶ Much of the war powers literature focuses on the concern that the United States might erroneously enter a war in which the expected costs outweigh the expected benefits. Statisticians usually label such errors of commission Type I errors. However, the other side of the coin is just as important. Errors Of omission, when the United States does not enter a conflict whose expected benefits outweigh the costs, are called Type II errors and may be just as undesirable as Type I errors." 5 But scholars rarely, if ever, ask whether requiring congressional ex ante approval for foreign wars could increase the likelihood of Type II errors. Legislative control could prevent the United States from entering into wars that would advance its foreign policy or national security objectives. The clearest example is World War II. During the inter-war period, Congress enacted several statutes designed to prevent the United States from entering into the wars in Europe and Asia. In 194o and 1941, President Franklin D. Roosevelt recognized that America's security would be threatened by German control of Europe, and he and his advisers gradually attempted to bring the United States to the assistance of Great Britain and the Soviet Union.' 6 Nonetheless, congressional resistance delayed entry into the war and prevented Roosevelt from doing anything more than supplying arms and loans to the Allies and providing partial protection for convoys to Great Britain. In hindsight, most would agree that America's earlier entry into World War II would have benefited both the United States and the world.¶ We must compare the impact of Type I and Type II errors under a Congress-first system with the results of a President-first approach. Presidents may cause the United States to begin wars that appear unnecessary or unwise initially; however, some of these conflicts may look better in hindsight. The Cold War experience, which provides the best examples of major military hostilities conducted without ex ante congressional authorization, does not stand as an unambiguous example of how legislative control promotes institutional deliberation and results in better conflict selection. Many of the conflicts, such as Panama and Grenada, ended successfully for the United States. To be sure, the Korean War, which many would consider a draw, did not, but the Korean War may have succeeded in its broader objectives of containing the expansion of communism in East Asia.¶ Statements defending congressional approval of military hostilities, in effect, argue that congressional authorization produces deliberation, consensus, and good selection of wars. However, there is little or no empirical data to support this conclusion, and some of the best known anecdotes from the historical record point in the other direction. If empirical data on American wars would be too difficult to analyze, perhaps we should proceed along a different line, by constructing better models of state behavior in the international system to judge the efficacy of warmaking arrangements. We do not claim that the empirical record shows that a President-first approach is always superior. We argue that the Congress-first approach is based on unproven and questionable assumptions, and that as a matter of theory an approach that allows the President to choose whether to seek congressional support for war will be superior. We do not attempt to provide new empirical analysis here, but we will show as a matter of theory why the Congress-first approach does not provide the benefits claimed by its proponents.

## Solvency

### Obama Ignores Restrictions

#### Obama will use article 2 to bypass restrictions

The New American 13 (“Congress Looks to Revise, Expand President's War Powers”, 6/4/13, <http://www.thenewamerican.com/usnews/constitution/item/15616-congress-looks-to-revise-expand-president-s-war-powers>)

President Obama has pledged he will not sign any law to expand the president's war-making authority under the joint resolution known as the Authorization for the Use of Military Force, passed by both houses of Congress three days after the September 11, 2001 attacks on New York and Washington. What's more, the president said in the major foreign policy address he delivered at National Defense University nearly two weeks ago that he looked forward to "engaging Congress and the American people in efforts to refine, and ultimately repeal, the AUMF's mandate." Yet in rejecting the concept of a "boundless 'global war on terror,'" Obama promised a continued "series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America." These efforts will continue in Afghanistan and Pakistan, and in places such as Yemen, Somali, and North Africa, he said. The question he did not acknowledge, not to mention answer, is where does the president find the legal basis for wielding that military force in all those far-off places if the congressional authority for using it has been repealed? The AUMF says: The President is authorized to use all necessary and appropriate force 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. Under the Bush and Obama administrations, it has been claimed as authority for everything from the invasion of Afghanistan to extensive bombing in Pakistan, Yemen, and Somalia, and covert operations in who knows where. The Bush administration claimed its authority to defend the United States covered warrantless monitoring of Americans' international phone calls, and Obama has claimed the power to target individuals overseas, including American citizens, for killing by drone attack. Both administrations have claimed the power to imprison terror suspects, including U.S. citizens, indefinitely and without trial, and Congress has codified that power in sections of the National Defense Authorization Act. The enemy has been redefined to include not only al-Qaeda and those who harbored or assisted the 9/11 attackers, but "associated forces," some of which, such as the Pakistani Taliban and al-Shabaab in Somalia, were not yet in existence in on September 11, 2001. In recent congressional hearings, Sen. Angus King (I-Maine) pointed out that "associated forces" appears nowhere in the AUMF, while Sen. Carl Levin (D-Mich.), chairman of the Armed Services Committee, has argued the authorization applies to organizations that have since allied with al-Qaeda and have "joined the fight against us." Sen. John McCain, seldom bashful about the use of military force, has called the inclusion of associated forces "certainly a liberal interpretation of AUMF." McCain, the ranking Republican on the Armed Services Committee, said he was considering offering amendments to the defense spending bill for Fiscal Year 2014 to make changes in the counterterrorism law. "It's something whose time has come," he said. But change in what direction? Sen. Lindsey Graham (R-S.C.), who is usually allied with McCain on defense and foreign policy issues, made clear the direction he thinks he thinks the Congress should move. "I just think we need to broaden the definition," said Graham, "and look at who is the enemy and where is the war in 2013." Broadening the definition of the enemy would necessarily mean broadening the war, which is what the president has been doing anyway, despite his statements about wanting a narrower focus and an end to the "global war on terror." A recent Washington Post editorial warned of "a danger that dropping the AUMF — as opposed to tailoring it to the new conditions Obama described — will result in less restraint on presidential power, not more." That, the Post explained, is because "top legal advisers at the State and Defense departments" have publicly said that absent the AUMF, "military attacks on terrorists can still be carried out under Article II of the Constitution, which grants the president power to defend the country against imminent attack. Most legal experts agree with that view," the Post informed its readers.

#### The president can ignore congressional restrictions

Posner 13 (Eric, Professor at the University of Chicago Law School, “President Ruthless”, May 23, 2013, http://www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/05/obama\_s\_speech\_he\_s\_just\_like\_bush\_in\_pushing\_the\_limits\_of\_executive\_power.single.html)

This argument echoes the Bush administration’s dubious claim that waterboarding is not “torture” because it does not exceed the necessary threshold of pain. But presidents have always advanced strained interpretations of statutes that conflict with what they see as their constitutional powers to make war and conduct foreign policy. This is a polite way for the president to do what he wants without explicitly defying Congress. (There is even a legal doctrine that reflects this principle; it’s called the “canon of avoidance”). For good or ill, it is a practice that is rooted in tradition going back to the founders. In parliamentary systems, the executive is bound by the decisions of the legislature (at least in theory). People with vague memories of junior high civics class might think the same principle applies in the United States. It doesn’t. The Constitution gives the executive independence from Congress. Madison, who like other founders feared tyrannous legislatures as much as tyrannous executives, made this explicit in his famous statement in The Federalist Papers. “The great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachment of the others.” The president resists encroachment from Congress by refusing to obey, or by narrowly interpreting, statutes that infringe on his constitutional powers, including war powers. When Congress and the executive clash about the meaning of those powers, there is no neutral way to decide who is right. That is why precedent looms so large in determining the actual allocation of powers. Presidents disregard the Constitution’s mandate to obtain the advice of the Senate when making treaties because George Washington decided that the injunction was impractical and the Senate acquiesced. The president’s power to interpret or disregard treaties likewise reflects long-standing practice: One clear example is President Carter’s withdrawal of the United States from a treaty with Taiwan in 1979. Other presidents have also narrowly interpreted, or simply violated, the War Powers Resolution, as President Clinton did during the conflict with Serbia in 1999. Even targeted killing outside of warfare is not new: Consider Clinton’s cruise missile strike in 1998 against a Sudanese pharmaceutical factory that allegedly manufactured chemical weapons. By allowing such examples of executive muscle flexing, Congress has ratified them. That is how our system works. When the Bush administration was at the bench press, the left managed to create a narrative, largely accepted by the media, that the president was lawless. Now that it’s Obama’s turn, has the story changed? Friedersdorf takes the both-are-lawless path, and gets points for consistency, but he is tilting at windmills—both parties and mainstream public opinion support a president who can forcefully counter threats. Harold Koh, by contrast, argued in a recent speech that Obama is different and better than Bush was. He said that a “critical difference between this Administration and its predecessor is the Obama Administration’s determination not to address Al Qaeda and the Taliban solely through the tools of war.” Also:

#### Obama will straight up ignore statutory restrictions

Greenwald 11 (Glenn, Former Constitutional and civil rights litigator, recipient of the I.F. Stone Award for Independent Journalism, “Obama’s new view of his own war powers”, 3/31/11, <http://www.salon.com/2011/03/31/executive_power_2/>)

Back in January, 2006, the Bush Justice Department released a 42-page memo arguing that the President had the power to ignore Congressional restrictions on domestic eavesdropping, such as those imposed by FISA (the 30-year-old law that made it a felony to do exactly what Bush got caught doing: eavesdropping on the communications of Americans without warrants). That occurred roughly 3 months after I began blogging, and — to my embarrassment now — I was actually shocked by the brazen radicalism and extremism expressed in that Memo. It literally argued that Congress had no power to constrain the President in any way when it came to national security matters and protecting the nation. To advance this defense, Bush lawyers hailed what they called “the President’s role as sole organ for the Nation in foreign affairs“; said the President’s war power inherently as “Commander-in-Chief” under Article II “includes all that is necessary and proper for carrying these powers into execution”; favorably cited an argument made by Attorney General Black during the Civil War that statutes restricting the President’s actions relating to war “could probably be read as simply providing ‘a recommendation’ that the President could decline to follow at his discretion“; and, as a result of all that, Congress “was pressing or even exceeding constitutional limits” when it attempted to regulate how the President could eavesdrop on Americans. As a result, the Bush memo argued, the President had the power to ignore the law because FISA, to the extent it purported to restrict the President’s war powers, “would be unconstitutional as applied in the context of this Congressionally authorized armed conflict.” That claim — that the President and he alone possesses all powers relating to war under the “Commander-in-Chief” clause of Article II — became the cornerstone of Bush’s “ideology of lawlessness.” In a post that same month defining that ideology, I argued that this lawlessness was grounded in the September 25, 2001, War Powers memo by John Yoo, which infamously concluded as follows: In both the War Powers Resolution and the Joint Resolution, Congress has recognized the President’s authority to use force in circumstances such as those created by the September 11 incidents. Neither statute, however, can place any limits on the President’s determinations as to any terrorist threat, the amount of military force to be used in response, or the method, timing, and nature of the response. These decisions, under our Constitution, are for the President alone to make. That was the heart and soul of Bush lawlessness: no “statute can place any limits on the President’s determinations” as “these decisions, under our Constitution, are for the President alone to make.” Yesterday, Hillary Clinton told the House of Representatives that “the White House would forge ahead with military action in Libya even if Congress passed a resolution constraining the mission.” As TPM put it: ”the administration would ignore any and all attempts by Congress to shackle President Obama’s power as commander in chief to make military and wartime decisions,” as such attempts would constitute “an unconstitutional encroachment on executive power.” As Democratic Rep. Brad Sherman noted, Clinton was not relying on the War Powers Resolution of 1973 (WPR); to the contrary, her position is that the Obama administration has the power to wage war in violation even of the permissive dictates of that Resolution. And, of course, the Obama administration has indeed involved the U.S. in a major, risky war, in a country that has neither attacked us nor threatened to, without even a pretense of Congressional approval or any form of democratic consent. Whether the U.S. should go to war is a decision, they obviously believe, “for the President alone to make.” Initially, I defy anyone to identify any differences between the administration’s view of its own authority — that it has the right to ignore Congressional restrictions on its war powers — and the crux of Bush radicalism as expressed in the once-controversial memos by John Yoo and the Bush DOJ. There is none. That’s why Yoo went to The Wall Street Journal to lavish praise on Obama’s new war power theory: because it’s Yoo’s theory (as I was finishing this post, I saw that Adam Serwer makes a similar point today). If anything, one could argue that Yoo’s theory of unilateral war-making was more reasonable, as it was at least tied to an actual attack on the U.S.: the 9/11 attacks. Here, the Obama administration is arrogating unto the President the unilateral, unrestrained right to start wars in all circumstances, whether or not the U.S. is attacked.

#### Congress will acquiesce to violations

Greenwald 11 (Glenn, Former Constitutional and civil rights litigator, recipient of the I.F. Stone Award for Independent Journalism, “Obama’s new view of his own war powers”, 3/31/11, <http://www.salon.com/2011/03/31/executive_power_2/>)

Matt Yglesias is absolutely right when he points out that, in reality, Congress is happy to have the President usurp its powers in these cases because it alleviates them of responsibility to act. But the same was true of the Democratic Congress under Bush, and that didn’t justify anything Bush did; it just meant that Congress shared the blame for acquiescing to it. It may be common, and it may produce good outcomes, and it may be a longstanding problem, but there’s no question that Obama’s commencement of this war without Congressional approval, and especially Hillary Clinton’s announcement that Congress has no power to restrict the President in any way, are acts of pure imperial lawlessness. Daniel Larison put it best:

#### Obama will circumvent the plan

Anita Kumar 13, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” 3/19 <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

#### Pressure to fight terror o/w pub pressure

Dickinson 11—Professor of political science @ Middlebury College. [Dr. Matthew Dickinson (Expert on presidential powers with a PhD from Harvard), “Will You End Up in Guantanamo Bay Prison?,” Presidential Power, December 3, 2011 pg. http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/

Despite the overwhelming Senate support for passage (the bill passed 93-7 and will be reconciled with a House version. Senators voting nay included three Democrats, three Republicans and one independent), however, President Obama is still threatening to veto the bill in its current form. However, if administration spokespersons are to be believed, Obama’s objection is based not so much on concern for civil liberties as it is on preserving the president’s authority and flexibility in fighting the war on terror. According to White House press secretary Jay Carney, “Counterterrorism officials from the Republican and Democratic administrations have said that the language in this bill would jeopardize national security by restricting flexibility in our fight against Al Qaeda.” (The administration also objects to language in the bill that would restrict any transfer of detainees out of Guantanamo Bay prison for the next year.) For these reasons, the President is still threatening to veto the bill, which now goes to the Republican-controlled House where it is unlikely to be amended in a way that satisfies the President’s concerns. If not, this sets up an interesting scenario in which the President may have to decide whether to stick by his veto threat and hope that partisan loyalties kick in to prevent a rare veto override.¶ The debate over the authorization bill is another reminder of a point that you have heard me make before: that when it comes to national security issues and the War on Terror, President Obama’s views are much closer to his predecessor’s George W. Bush’s than they are to candidate Obama’s. The reason, of course, is that once in office, the president—as the elected official that comes closest to embodying national sovereignty—feels the pressure of protecting the nation from attack much more acutely than anyone else. That pressure drives them to seek maximum flexibility in their ability to respond to external threats, and to resist any provision that appears to constrain their authority. This is why Obama’s conduct of the War on Terror has followed so closely in Bush’s footsteps—both are motivated by the same institutional incentives and concerns.¶ The Senate debate, however, also illustrates a second point. We often array elected officials along a single ideological line, from most conservative to most liberal. Think Bernie Sanders at one end and Jim DeMint at the other. In so doing, we are suggesting that those individuals at the farthest ends of the spectrum have the greatest divergence in ideology. But on some issues, including this authorization bill, that ideological model is misleading. Instead, it is better to think of legislators arrayed in a circle, with libertarian Republicans and progressive Democrats sitting much closer together, say, at the top of the circle, joined together in their resistance to strong government and support for civil liberties. At the “bottom” of the circle are Republicans like Graham and Democrats like Levin who share an affinity for strengthening the government’s ability to protect the nation’s security.¶ For Obama, however, the central issue is not the clash of civil liberties and national security—it is the relative authority of the President versus Congress to conduct the War on Terror. That explains why he has stuck by his veto threat despite the legislative compromise. And it raises an interesting test of power. To date he has issued only two presidential vetoes, by far the lowest number of any President in the modern era. His predecessor George W. Bush issued 12, and saw Congress override four—a historically high percentage of overrides. On average, presidential vetoes are overridden about 7% of the time. These figures, however, underplay the use of veto threats as a bargaining tool. In the 110th (2007-08) Congress alone, Bush issued more than 100 veto threats. I’ve not calculated Obama’s veto threats, but it is easy enough to do by going to the White House’s website and looking under its Statements of Administrative Policy (SAP’s) listings. Those should include veto threats. Note that most veto threats are relatively less publicized and often are issued early in the legislative process. This latest veto threat, in contrast, seems to have attracted quite a bit of press attention. It will be interesting to see whether, if the current authorization language remains unchanged, Obama will stick to his guns.

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## FLEX

### Warfighting Links

#### Executive control of foreign policy is key to prevent war – Speed and secrecy

Yoo 13 (John, Former Deputy Assistant U.S. Attorney General, Emanuel S. Heller Professor of Law at Berkeley, “President Obama and the Framers’ Presidency”, Harv. JL & Pub. Pol'y 36 (2013), <http://www.harvard-jlpp.com/wp-content/uploads/2013/01/36_1_073_Yoo.pdf>)

Just as the presidency was meant to be retiring at home, it was designed to be vigorous in opposite measure abroad. As Hamilton wrote, the executive was to be that part of the government to respond with “[d]ecision, activity, secrecy, and dispatch” to unforeseen crises and emergencies, the most dangerous of which was war. 37 “Of all the cares or concerns of government,” Hamilton wrote in Federalist 74, “the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand.” 38 In his great Democracy in America, Alexis de Tocqueville observed in the 1820s that the presidency was a cipher that would become a great office only after foreign affairs became important to the United States. 39 The Framers expected the executive branch to come to the fore in foreign policy. 40 The conduct of foreign policy is the only reason why it is necessary to have an executive independent from the legislature. The Framers could have created a parliamentary system of government where the majority party in the legislature appoints a cabinet to execute its policies. Yet they thought America ought to have something different in the realm of foreign policy because of its unique characteristics. Foreign policy is unpredictable: It is very difficult for the legislature to pass laws in anticipation of what is going to happen in foreign affairs. There is more advantage for one person to act with what the Framers called “[d]ecision, activity, secrecy, and dispatch,” 41 because the national danger, the harm to the country, might be greater. The public might be willing to accept more errors by a single person in exchange for his ability to act more quickly and decisively. As Alexander Hamilton in Federalist 74 observed, war is the greatest challenge of these challenges; and so war is that area of human life which is best suited to administration by the executive. 42 It is possible to have a government by large deliberative bodies, such as the parliamentary systems of European countries. But the trade ‐ off is that it is very hard for legislatures to act quickly. They arguably may make fewer mistakes: The more people who participate in a decision, the less likely they are to make an error. The Constitution creates more checks in domestic than in foreign affairs; bicameralism and presentment make it harder for the federal government to act domestically in part because there is no great harm from slowness in domestic affairs. If the federal government fails to act, there is no vacuum or absence of public regulation. The States provide a preexisting background of regulation, especially the great sea of state common law. In foreign affairs, however, there can be a high cost to inaction, and there is no safety net provided by the States, which are constitutionally incapable of acting abroad. There is an advantage to acting faster. Low approval ratings for presidents who have proceeded too deferentially toward the legislature are not just a modern phenomenon. Historically, most presidents that we regard as mediocre deferred too much to Congress in foreign affairs and did not exercise sufficiently vigorous executive power. According to a poll of 300 history and legal scholars asking them to rank presidents conducted by the Federalist Society and The Wall Street Journal , 43 the worst President, by a clear margin, is James Buchanan. 44 Buchanan served as President immediately before Lincoln. 45 He was one of our most accomplished candidates for President: Representative and Senator from Pennsylvania, Ambassador to Russia and Great Britain, and Secretary of State. He did everything one is supposed to do to prepare for the presidency. 46 Yet he thought the President had no right to stop secession to head off the Civil War. 47 James Madison is another example of a mediocre president. Madison was probably one of the most intelligent men to occupy the Oval Office, but he also believed in executive deference to the legislature, particularly in foreign policy. 48 As a result, he allowed the United States to be drawn into the War of 1812, arguably the most short ‐ sighted American war, from a strategic perspective. 49 Prior to the war, the United States pursued a pol ‐ icy of neutrality between England and France and profiting from trade with both. Despite this, Madison decided to declare war against the only country that had a navy and troops on the U.S. border, 50 primarily because many in the legislature wanted to invade Canada. 51 The war was a disaster: U.S. efforts to invade Canada were repulsed, and the British took the U.S. capital and burned it to the ground. 52 Had the British invasion of New Or ‐ leans succeeded, the European powers would have pinned the United States to the eastern seaboard for decades. The failure of the War of 1812 highlights the disaster that results from congressionally led action in the area where the Framers felt that a vigorous executive, not a deferential one, should govern.

#### Pres powers key to War-fighting capabilities – Requiring explicit congressional authorization undermines speed and flexibility

Ku and Yoo 6 (Julian Ku, Associate Professor of Law, Hofstra University School of Law, And John Yoo, Professor of Law, University of California at Berkeley School of Law, “Article: HAMDAN v. RUMSFELD: THE FUNCTIONAL CASE FOR FOREIGN AFFAIRS DEFERENCE TO THE EXECUTIVE BRANCH”, Summer, 2006, 23 Const. Commentary 179, Lexis)

But one need not take sides in the war powers debate between the President and Congress to see that the Court has unnecessarily interfered in the political branches' management of war. Constitutional practice shows that there has been a substantial history of inter-branch interaction and cooperation on the subject of military commissions. Rather than a story of unilateral executive branch action, Congress has supported presidential use of them in at least three different ways: a) Section 821 of the UCMJ, which recognizes military commissions; b) the Authorization to Use Military Force enacted on September 18, 2001, which authorized the President to use all necessary and appropriate force against those responsible for the September 11 attacks; and c) the Detainee Treatment Act of 2005, which created a carefully crafted review process for military commission verdicts. This is not to say that President Bush could not use military commissions on his own authority once war broke out; several Presidents had employed them as a wartime measure without any specific congressional authorization. But it was unnecessary for the Court to reach the issue of the President's constitutional powers since Congress was on record as supporting military commissions. Indeed, Congress's swift action to largely reinstate the pre-Hamdan military commissions simply confirms that there was no real conflict between executive and legislative policy in the use of military commissions. [\*215] B. Hamdan's Unique and Costly Clear Statement Rule In effect, Hamdan raises the transaction costs for the making of policy in wartime, and in fact raises them higher than exists for domestic policymaking. Courts tolerate the broad delegations by Congress to the administrative state, where executive branch agencies sometimes make rules with legislative effect based only on the command that they advance the public interest. Courts have yet to invalidate any such delegation as too vague or too broad since the days of the Supreme Court's resistance to the New Deal. n118 Yet, Hamdan suggests that similarly broad delegations will not survive in foreign affairs. This reverses the stance that the Court had adopted in national security and foreign affairs for decades. In the well-known United States v. Curtiss-Wright Export Corp., for example, the Court upheld Congress's delegation of authority to FDR in foreign affairs that it suggested that it might not in domestic affairs. In order to avoid serious embarrassment in foreign affairs and promote national goals, the Court found, "congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved." n119 The Curtiss-Wright Court identified a number of reasons for judicial deference in the foreign affairs field, particularly to delegations of authority to the executive. First, the Court observed, the President often acts in the foreign realm not just under legislative authorization, "but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations." n120 Because the President has his own independent foreign [\*216] affairs power, the Curtiss-Wright majority believed, courts ought to adopt a deferential stance when the President and Congress are acting together in an area of foreign affairs, and not be punctilious about which branch's power was being exercised. Second, the Court found that functionally that the President "has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war." n121 Presidents can act, the Court suggested, more effectively in response to secret information, which demonstrates "the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed." n122 Third, the Court found a "uniform, long-continued and undisputed legislative practice" n123 of granting the President in foreign affairs power to use "his unrestricted judgment" or which "provide a standard far more general than that which has always been considered requisite with regard to domestic affairs." n124 A more generous attitude toward the broad delegation of power in the foreign affairs area is not just an artifact of the inter-war period. Dames & Moore v. Regan also relied on a posture of judicial deference toward the actions of the political branches in foreign affairs. n125 In Dames & Moore, the Court upheld President Carter's order suspending claims against Iran pending in U.S. courts to fulfill an agreement releasing US hostages in Iran. Justice Rehnquist, writing for the majority, found that the International Emergency Economic Powers Act (IEEPA) specifically authorized the President to order several of the actions required by the agreement with Iran, such as the nullifying the attachment of Iranian assets and transferring them out of the country. n126 But IEEPA contained no similar provision providing for the suspension of claims. Nonetheless, the Court upheld the President's exercise of that power based on an absence of specific congressional disapproval and its enactment of IEEPA and related statutes in the general area. Congress cannot anticipate and legislate with regard to every possible action the President may find it necessary to take or every possible situation in which he might act. Such failure of [\*217] Congress specifically to delegate authority does not, "especially ... in the areas of foreign policy and national security," imply "congressional disapproval" of action taken by the Executive. n127 Rather than require specific congressional authorization, the Court found that "the enactment of legislation closely related to the question of the President's authority in a particular case which evinces legislative intent to accord the President broad discretion may be considered to "invite' "measures on independent presidential responsibility.'" n128 Hamdan upsets the Court's traditional doctrine of deferring to the delegation of authority, or power-sharing, in foreign affairs and national security. It makes little sense to increase transaction costs to cooperation between the branches in war and foreign affairs. First, from a formal perspective, the President has greater independent constitutional powers when foreign affairs and war are concerned than during peacetime. The September 11 attacks triggered the President's Commander-in-Chief power, which would provide him with broader authority to make policy decisions, of both the strategic and tactical level, than in peacetime. Even if one believes that only Congress can authorize wars, Congress authorized this one when it enacted the AUMF. At the very least, it seems that the need for a clear statement rule weighted against delegations of authority is out of place in an area, such as war and national security, where the President possesses greater constitutional authority and the dividing line between the branches' authorities is unclear. Second, the goals of the separation of powers are not advanced by more intrusive judicial review over warmaking. In the domestic context, the Court has identified the preservation of individual liberty as an important goal of the separation of powers. As the Court observed in Bowsher v. Synar, the Framers believed that the separation of powers would prevent any single branch of the government from expanding its power to threaten the freedoms of its citizens. n129 "Even a cursory examination of the Constitution reveals the influence of Montesquieu's thesis that checks and balances were the foundation of a structure of government that would protect liberty." n130 This echoed James [\*218] Madison's explanation in The Federalist for the interlocking nature of the separation of powers and federalism. Due to the division of power between the branches of the federal government, and then between the federal government and the states, "a double security arises to the rights of the people. The different governments will controul each other; at the same time that each will be controuled by itself." n131 Threats to individual freedoms, especially the individual freedoms of enemy aliens, are not the primary concern when the government is fighting a foreign enemy that threatens the basic security of the nation. In wartime the government may reduce the individual liberties of even citizens in order to more effectively fight the war, and it has longstanding authority to dramatically curtail the rights of non-citizens. A wartime government may even pursue policies that, in retrospect, appear to be an over-reaction to the threat. But our constitutional system places the interest in effectively waging war first. As Alexander Hamilton wrote in The Federalist, because "the circumstances which may affect the public safety are [not] reducible within certain determinate limits; ... it must be admitted, as a necessary consequence, that there can be no limitation of that authority, which is to provide for the defence and protection of the community, in any matter essential to its efficacy." n132 James Madison agreed that the federal government had to possess all of the powers necessary to defend the country. "Security against foreign danger is one of the primitive objects of civil society... . The powers requisite for attaining it, must be effectually confided to the federal councils." n133 The limits of this power could not be defined precisely. Wrote Hamilton: the federal government should possess "an indefinite power of providing for emergencies as they might arise." n134 The Framers did not appear to believe that a strict reading of the separation of powers ought to be applied to the federal government's decisions in wartime, when the benefit to the nation as a whole in defeating the enemy would be advanced by cooperation between the branches. Third, the Court is not protecting Congress's prerogatives in demanding that it specifically authorize presidential action in [\*219] war. As positive political theorists have argued, Congress's collective action problems and the rational self-interests of its members in re-election make it difficult for the legislature to act in certain areas where uncertainty is high, information and expertise are expensive, and there may be costly political repercussions from the decision. n135 Political scientists have found that the greatest degree of delegation will occur in the area of foreign affairs and national security, and that this is also an area where we would expect to see more unilateral presidential action accompanied by congressional acquiescence. Legislators are more likely to set no policy of their own or to delegate broadly to the executive branch when high risks are involved over which they have little control, which perhaps better describes war than any other area of human conduct. Because of these political imperatives, the executive and legislative branches have settled on a stable system that provides broad delegation to the President in foreign affairs and national security. Hamdan identifies no benefits for United States war policies in overthrowing this arrangement, fails to grapple with the costs in higher transaction costs and greater uncertainty it has created, and does not ask whether its new clear statement rule will actually correct mistakes in identifying popular wishes. If they were to be consistent, fans of functionalism in separation of powers analysis ought to rue a decision like Hamdan. Fourth, enforcing a strict approach to delegation does not adequately address the situation presented by war. Hamdan's clear statement rule essentially chooses a rule over a standard in delegating power. n136 A typical rule is a speed limit of 55 miles per hour. Rules reduce decision costs because they are clear and easy to apply; they create legal certainty because of greater predictability; and they require less information to implement. Rules, however, do not allow a careful application of law to all relevant facts, and so they are inevitably overinclusive or underinclusive. n137 A standard that aimed at the same goal as a speed limit could simply prohibit driving unreasonably fast under the [\*220] conditions. Standards, which allow for consideration of more factors and facts, increase decision costs, but reduce error costs. Consideration of a greater variety of factors will reduce the underinclusiveness or overinclusiveness of the law, but it will require more information to apply and lead to less predictability and more uncertainty ex ante. Rules and standards also bear differences in the discretion available to the decisionmaker at the time of implementation. The delegator of power may choose a rule if it believes future decisionmakers will make mistakes or will not have access to good information. n138 A rule gives more authority to those who write the law by narrowing the discretion of future decisionmakers. A standard is superior when the decisionmaker enjoys greater competence and has access to better information at the time an actual case arises. Standards vest more authority in those who apply the law to a given case, rather than those who wrote the law. Under this approach, narrow delegations governed by strict rules and clear statement requirements make the most sense when Congress enjoys superior decisionmaking abilities and has access to superior information at the time it writes the law. It should use a rule when narrowing discretion will not produce large numbers of errors, or when it believes that the President has poor decisionmaking abilities. Such an approach will save decision-making costs once power is delegated because the executive branch will not have to expend significant resources in application of the delegation power. But it requires Congress to predict with high certainty the universe of future cases, and draft rules in anticipation of them. Broad delegations, on the other hand, will make more sense if Congress cannot foresee the possible situations. A President acting within wide boundaries of delegated power will be able to better fit policy to the circumstances at hand, though at higher decisionmaking costs. Employing a strict rule over a standard has certain costs and benefits, ones that are mismatched for wartime. War is perhaps the most extreme example of an issue where the executive branch will have available superior information than the legislature, and it will be able to make decisions swiftly, in contrast to a Congress that will suffer from collective action problems and will be averse to making politically risky choices. War is also perhaps the most inherently unpredictable of human activities. Unless [\*221] Congress is confident that it can predict the enemy's strategies and tactics, a rule based delegation makes little sense. Finally, the costs of errors in war are extremely high. Delegation by strict rule will produce higher rates of error than a standard. Given the lives that could be lost and the damage to national security that could be suffered from mistaken policies, it seems clear that the area of war requires delegations which provide the executive branch with broad discretion. Hamdan, by contrast, applies the opposite principle. It imposes a requirement that Congress act through rules when it attempts to delegate its powers in war to the President. It effectively rejected the standards approach exemplified by the AUMF and Hamdi. The Court's clear statement rule, however, does not appear to promote any specific policy which is explained as being more important or valuable than flexibility in wartime. As William Eskridge and Philip Frickey have observed, clear statement rules embody policy choices by the Court, such as the rule of lenity's protection for criminal defendants. n139 If anything, they have argued, in past cases the Court had applied clear statement rules to protect the executive's prerogatives in managing foreign affairs. n140 Hamdan fails to explain what policy value is enhanced by reversing this rule to impose a clear statement rule on wartime policy, and why that value outweighs the benefits of flexibility in war decisions. Hamdan does not bode well for the United States's ability to wage war effectively. It increases the costs of conducting hostilities by making it more difficult for the President and Congress to cooperate. Congress may enumerate powers more specifically, but at the cost of flexibility - presidential ability to shape decisions to the circumstances at hand will be constrained. Or, as it did in the Military Commissions Act of 2006, Congress may largely restore the President's discretion to run military commissions, but it will do so at the cost in time and energy of developing and enacting complicated legislation. Indeed, without congressional action, Hamdan would have simply resulted in blocking war crimes trials altogether, leaving enemy combatants detained for the duration of the conflict.

#### Deference to the executive key to effective response to security threats – Expertise and secrecy

Posner 12 (Eric, University of Chicago Law, “Deference to the Executive in the United States After September 11: Congress, the Courts, and the Office of Legal Counsel”, <http://ericposner.com/DEFERENCE%20TO%20THE%20EXECUTIVE.pdf>)

The debate is best understood in the context of the U.S. government's post-September 11 policies. Defenders of these policies frequently invoked the deference thesis--not so much as a way of justifying any particular policy, but as a way of insisting that the executive should be given the benefit of the doubt, at least in the short term. (15) The deference thesis rests on basic intuitions about institutional competence: that the executive can act more decisively and with greater secrecy than Congress or the courts because it is a hierarchical body and commands forces that are trained and experienced in countering security threats. The other branches lack expertise. Although they may have good ideas from time to time, and are free to volunteer them, the ability of the executive to respond to security threats would be unacceptably hampered if Congress and the courts had the power to block it to any significant degree. Secrecy is an important part of the argument. Policymaking depends on information, and information during emergencies often must be kept secret. Congress and the courts are by nature and tradition open bodies; if they were to act in secret, their value would be diminished. Meanwhile, the argument continues, the fear of an out-of-control executive who would engage in abuses unless it was constrained by the other branches is exaggerated. The President has strong electoral and other political incentives to act in the public interest (at least, in the United States). Even if the executive can conceal various "inputs" into counterterrorism policy, it cannot conceal the "output"--the existence, or not, of terrorist attacks that kill civilians.

### Stats Prove

#### Longitudinal empirical analysis supports our impacts

Drezner 5 – Professor of IR @ Tufts

Daniel, Gregg Easterbrook, Associate Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University, “War, and the dangers of extrapolation”

Daily explosions in Iraq, massacres in Sudan, the Koreas smakestaring at each other through artillery barrels, a Hobbesian war of all against all in eastern Congo--combat plagues human society as it has, perhaps, since our distant forebears realized that a tree limb could be used as a club. But here is something you would never guess from watching the news: War has entered a cycle of decline. Combat in Iraq and in a few other places is an exception to a significant global trend that has gone nearly unnoticed--namely that, for about 15 years, there have been steadily fewer armed conflicts worldwide. In fact, it is possible that a person's chance of dying because of war has, in the last decade or more, become the lowest in human history.  Is Easterbrook right? He has a few more paragraphs on the numbers:  The University of Maryland studies find the number of wars and armed conflicts worldwide peaked in 1991 at 51, which may represent the most wars happening simultaneously at any point in history. Since 1991, the number has fallen steadily. There were 26 armed conflicts in 2000 and 25 in 2002, even after the Al Qaeda attack on the United States and the U.S. counterattack against Afghanistan. By 2004, Marshall and Gurr's latest study shows, the number of armed conflicts in the world had declined to 20, even after the invasion of Iraq. All told, there were less than half as many wars in 2004 as there were in 1991.  Marshall and Gurr also have a second ranking, gauging the magnitude of fighting. This section of the report is more subjective. Everyone agrees that the worst moment for human conflict was World War II; but how to rank, say, the current separatist fighting in Indonesia versus, say, the Algerian war of independence is more speculative. Nevertheless, the Peace and Conflict studies name 1991 as the peak post-World War II year for totality of global fighting, giving that year a ranking of 179 on a scale that rates the extent and destructiveness of combat. By 2000, in spite of war in the Balkans and genocide in Rwanda, the number had fallen to 97; by 2002 to 81; and, at the end of 2004, it stood at 65. This suggests the extent and intensity of global combat is now less than half what it was 15 years ago.  Easterbrook spends the rest of the essay postulating the causes of this -- the decline in great power war, the spread of democracies, the growth of economic interdependence, and even the peacekeeping capabilities of the United Nations.  Easterbrook makes a lot of good points -- most people are genuinely shocked when they are told that even in a post-9/11 climate, there has been a steady and persistent decline in wars and deaths from wars. That said, what bothers me in the piece is what Easterbrook leaves out.  First, he neglects to mention the biggest reason for why war is on the decline -- there's a global hegemon called the United States right now. Easterbrook acknowledges that "the most powerful factor must be the end of the cold war" but he doesn't understand *why*it's the most powerful factor. Elsewhere in the piece he talks about the growing comity among the great powers, without discussing the elephant in the room: the reason the "great powers" get along is that the United States is much, much more powerful than anyone else. If you quantify power only by relative military capabilities, the U.S. is a great power, there are maybe ten or so middle powers, and then there are a lot of mosquitoes.[If the U.S. is so powerful, why can't it subdue the Iraqi insurgency?--ed. Power is a relative measure -- the U.S. might be having difficulties, but no other country in the world would have fewer problems.] Joshua Goldstein, who knows a thing or two about this phenomenon, made this clear in a Christian Science Monitor op-ed three years ago:  We probably owe this lull to the end of the cold war, and to a unipolar world order with a single superpower to impose its will in places like Kuwait, Serbia, and Afghanistan. The emerging world order is not exactly benign – Sept. 11 comes to mind – and Pax Americana delivers neither justice nor harmony to the corners of the earth. But a unipolar world is inherently more peaceful than the bipolar one where two superpowers fueled rival armies around the world. The long-delayed "peace dividend" has arrived, like a tax refund check long lost in the mail. The difference in language between Goldstein and Easterbrook highlights my second problem with "The End of War?" Goldstein rightly refers to the past fifteen years as a "lull" -- a temporary reduction in war and war-related death. The flip side of U.S. hegemony being responsible for the reduction of armed conflict is what would happen if U.S. hegemony were to ever fade away. Easterbrook focuses on the trends that suggest an ever-decreasing amount of armed conflict -- and I hope he's right. But I'm enough of a realist to know that if the U.S. should find its primacy challenged by, say, a really populous non-democratic country on the other side of the Pacific Ocean, all best about the utility of economic interdependence, U.N. peacekeeping, and the spread of democracy are right out the window.  UPDATE: To respond to a few thoughts posted by the commenters:  1) To spell things out a bit more clearly -- U.S. hegemony important to the reduction of conflict in two ways. First, U.S. power can act as a powerful if imperfect constraint on pairs of enduring rivals (Greece-Turkey, India-Pakistan) that contemplate war on a regular basis. It can't stop every conflict, but it can blunt a lot of them. Second, and more important to Easterbrook's thesis, U.S. supremacy in conventional military affairs prevents other middle-range states -- China, Russia, India, Great Britain, France, etc. -- from challenging theU.S. or each other in a war. It would be suicide for anyone to fight a war with the U.S., and if any of thesecountries waged a war with each other, the prospect of U.S. intervention would be equally daunting.

#### Statistical regression proves hegemonic stability theory

--this card is also quite good on economic strength being key

Hubbard 10 – American University

Jesse Hubbard, “Hegemonic Stability Theory: An Empirical Analysis,” Scholar

In his magnum opus The Decline and Fall of the Roman Empire, Edward Gibbon wrote admiringly of the benefits of the Pax Romana. It was the “period in the history of the world” wrote Gibbon, “during which the condition of the human race was most happy and prosperous” (Gibbon 1776). Ever since Gibbon, the idea of an imperial peace has permeated the intellectual discourse. In the 19th century, apologists for Britain’s colonial empire spoke of a Pax Britannica spreading peace and progress throughout the world. In our own time, it is the term Pax Americana that is used to describe the relative peace that has permeated the international system since the end of World War II. In international relations, this idea of an imperial peace has been honed into a more precise concept known as hegemonic stability theory. The field of international relations is replete with contentious debates over both theory and policy, but hegemonic stability theory has elicited controversy from theoreticians and policymakers alike. Hegemonic stability theory posits that an assertive hegemon can act as a stabilizing force in the international system. While the theory itself may be straightforward, it has complex ramifications for the nature of order in the international system. The theory also holds important consequences regarding the morality of hegemony itself. If hegemony does indeed produce such beneficial effects for the world, then hegemonic stability theory lends moral weight to the hegemon. Research into the theoretical underpinnings of this topic revealed that there are two main subfields within the literature on hegemonic stability. One line of study, an avenue pursued by prominent theorists such as Kindleberger, Keohane, and Ikenberry focuses primarily on questions of related to the economic system. The other avenue, pursued by theorists such as Gilpin, looks at the role of hegemonic governance in reducing violent conflict. In my research, I focus on this aspect of hegemonic stability – its implications for military conflict in the international system. To research this question, I undertook a broad quantitative study that examined data from both the American and British hegemonic epochs, focusing on the years of 1815-1939 in the case of British hegemony, and 1945 to 1999 in the case of American hegemony. I hypothesized that hegemonic strength was inversely correlated with levels of armed conflict in the international system. Using the data from the Correlates of War Project, I was able to perform a number of statistical analyses on my hypothesis. To measure hegemonic strength, I used the Composite Index of National Capability, a metric that averages together six different dimensions of relative power as a share of total power in the international system. I then matched this data with data cataloging all conflicts in the international system since 1815. I organized this data into five-year increments, in order to make statistical analysis more feasible. Regression analysis of the data revealed that there was a statistically significant negative correlation between relative hegemonic power and conflict levels in the international system. However, further statistical tests added complications to the picture of hegemonic governance that was emerging. Regression analysis of military actions engaged in by the hegemon versus total conflict in the system revealed a highly positive correlation for both American and British hegemony. Further analysis revealed that in both cases, military power was a less accurate predictor of military conflict than economic power. There are several possible explanations for these findings. It is likely that economic stability has an effect on international security. In addition, weaker hegemons are more likely to be challenged militarily than stronger hegemons. Thus, the hegemon will engage in more conflicts during times of international insecurity, because such times are also when the hegemon is weakest. Perhaps the most important implication of this research is that hegemons may well be more effective in promoting peace through economic power than through the exercise of military force. II. Research Question In examining hegemonic stability theory, there are several important questions to consider. First of all, an acceptable definition of what constitutes a hegemon must be established. Secondly, a good measure of what constitutes stability in the international system must be determined. Certainly, the frequency and severity of interstate conflict is an important measure of stability in the international system. However, other measures of stability should also be taken into account. Conflict in the international system takes on a wide range of forms. While military conflict is perhaps the most violent and severe dimension, it is only one of many forms that conflict can take. Conflict need not be confined to wars between traditional states. Terrorism, piracy, and guerilla warfare are also types of conflict that are endemic to the international system. Economic conflict, exemplified by trade wars, hostile actions such as sanctions, or outright trade embargos, is also an important form of conflict in the international system. States can also engage in a range of less severe actions that might be deemed political conflict, by recalling an ambassador or withdrawing from international bodies, for example. Clearly, “stability” as it pertains to the international system is a vast and amorphous concept. Because of these complexities, a comprehensive assessment of the theory is beyond the purview of this research. However, completing a more focused analysis is a realistic endeavor. Focusing on international armed conflicts in two select periods will serve to increase the feasibility the research. I will focus on the period of British hegemony lasting from the end of the Napoleonic wars to 1939 and the period of American hegemony beginning after the Second World War and continuing until 1999, the last year for which reliable data is available. The proposed hypothesis is that in these periods, the hegemon acted as a stabilizing force by reducing the frequency and severity of international armed conflict. The dependent variable in this case is the frequency and severity of conflict. The primary independent variable is the power level of the hegemon. This hypothesis is probabilistic since it posits that the hegemon tended to reduce conflict, not that it did so in every single possible instance. One way to test this hypothesis would be through a case-study method that examined the role of Britain and the United States in several different conflicts. This method would have the advantage of approaching the problem from a very feasible, limited perspective. While it would not reveal much about hegemony on a broader theoretical level, it would help provide practical grounding for what is a highly theoretical area of stuffy in international relations. Another method would be to do a broader quantitative comparison of international conflict by finding and comparing data on conflict and hegemonic strength for the entire time covered by British and American hegemony. The hypothesis is falsifiable, because it could be shown that the hegemon did not act as a stabilizing force during the years of study. It also avoids some of the pitfalls associated with the case study method, such as selection bias and the inherently subjective nature of qualitative analysis. III. Literature Review Hegemonic stability theory is one of the most influential yet controversial ideas to emerge from the field of international relations. Because the subject is of obvious relevance to the role of the United States in the world, the debate over hegemonic stability theory is consequential for academics and policymakers alike. Since the theory’s genesis in the 1970s, a substantial body of literature has emerged critiquing and expanding upon the original idea. A review of the literature reveals that hegemonic stability theory has been analyzed quite thoroughly from an economic perspective. It also reveals a potential for more research to be done examining the effect of hegemony on armed conflict in the international system. The origins of hegemonic stability theory can be traced back to the 1950s, when Organski postulated that there was a link between British hegemony and the rise of free trade in the 19th century (Organski 1958). In 1973, Charles Kindleberger proposed the first true iteration of hegemonic stability theory when he argued that economic disorder in the years between the First and Second World Wars could be attributed to the lack of a hegemon (Kindleberger 1973). Kindleberger’s analysis raised some interesting questions for further study. Namely, to what extent was his analysis applicable to other historical epochs? Is the stabilizing effect created by hegemony quantifiable? And, perhaps most intriguingly, does this stabilizing effect extend beyond the realm of economics? The scholarship of Robert Gilpin was instrumental in fleshing out hegemonic governance as a broader theoretical concept. In his 1981 work War and Change in World Politics, Gilpin argued that instability in the international system is inversely related to the extent of a hegemon’s relative economic and military capabilities (Gilpin 1983). However, Gilpin’s analysis has not gone unchallenged. David Lake argues that Gilpin overestimates the centrality of hegemony to international order (Lake 1993). While he believes that hegemonic stability theory still has important insights, it should not necessarily be regarded as the central stabilizing factor in the international system. The work of Kindleberger and Gilpin divided hegemonic stability theory into two distinct approaches – Kindleberger, as a liberal economist, focused primarily on the role of the hegemon in providing collective goods contributing to economic stability. Gilpin, on the other hand, focuses much more on the security implications of hegemonic governance. A number of scholars of international relations have followed Kindleberger’s approach. Among the most influential work in this area was done by Keohane, Deudney, and Ikenberry. In his seminal text After Hegemony, Keohane argues that despite the relative decline of the United States, economic stability has endured because of the strength of the institutions the US helped create (Keohane 1984). Deudney and Ikenberry expanded upon this analysis, arguing that hegemony alone cannot account for the current stability in the international system (Deudney and Ikenberry 1999). Rather, it is just one among a number of factors contributing to stability. Co-binding security institutions, economic openness, and civic identity are among the other factors of importance in fostering stability. The arguments of Deudney and Ikenberry are persuasive, but would be served by greater empirical rigor. Fortunately, other authors have stepped forward with their own more empirical research. In The Limits of Hegemonic Stability Theory, Duncan Snidal uses the tools of game theory to argue that cooperation does not necessarily decline with a hegemon’s decline – it can even be enhanced under some conditions (Snidal 1985). Snidal’s analysis is useful for demonstrating the logical feasibility of Keohane’s, Deudney’s and Ikenberry’s arguments, even if his numerical models are ultimately somewhat arbitrary. And while the works of Deudney, Ikenberry, and Keohane are very important, they basically follow Kindleberger’s path in their focus on international economics. It is also worth devoting a good deal of attention to the more security-focused studies of hegemonic stability theory that have been done. Compared to the amount of scholarship focusing on the economic aspects of hegemonic stability theory, there is a relative dearth of research focusing on security implications, especially from an empirical perspective. This is an area where there is clearly room for new research. A number of scholars have challenged Gilpin’s thesis that instability in the international system is inversely related to the extent of a hegemon’s relative economic and military capabilities, but few have empirically tested it. Spiezio performed one of the few test cases in his analysis of British hegemony from 1815 to 1939 (Spiezio 1990). He chose Britain because it provides the only example of a complete hegemonic cycle for which reliable data are available. Webb and Krasner wrote in Hegemonic Stability Theory: An Empirical Assessment that one of the major challenges confronting researchers is in defining what constitutes hegemony (Webb and Krasner,1989). By examining Britain’s relative power year-by-year rather than simply measuring the amount of conflict during British hegemony, Spiezio circumvents this problem. Relying on the Correlates of War data set, he found that incidence of major war was inversely related to magnitude of hegemonic power, defined as a combination of military and economic capacity as a proportion of total capacity in the international system. The results also indicated that British hegemony was not the most important factor creating variation in the levels of international conflict. Another surprising anomaly was that hegemony appeared to account for more variation in frequency of all wars than in great power wars. Furthermore, Spiezio noticed a spike in conflict in the years when Britain was near its peak in terms of relative power. Thus, while Spiezio’s work provided support Gilpin’s basic hypothesis, it also called into question the centrality of hegemony in fostering stability. Spiezio’s research, while very useful, left a lot of room for further analysis. For instance, what would a similar empirical test reveal about United States dominance? A similar, though not identical, empirical test was done by Volgy and Imwalle examining the correlation between the power of the United States and international conflict (Volgy and Imwalle 2000). Like Spiezio, Volgy and Imwalle used the data set provided by the Correlates of War project. Also like Spiezio, Volgy and Imwalle operationalize power by finding the share of US economic and military output as a proportion of the military and economic output of all major nations in the international system. The study, which examined US power from 1950 to 1992, found a statistically significant negative correlation between the relative strength of the United States and incidence of international conflict and terrorism. An interesting follow-up to Volgy and Imwalle’s research would be to expand the data set to the years after 1992. Since almost all the data in the original study was from the Cold War era, adding more data from the unipolar era would be a valuable exercise. The work of Spiezio and Volgy and Imwalle has been invaluable for providing more rigorous empirical analysis of Gilpin’s thesis. However, despite the advances made by their research, there is still far more analysis that can be done to test the robustness of hegemonic stability theory. While existing research has been useful in proving correlations between hegemony and stability, demonstrating causation has proven to be more elusive. Given the complexity of the international system, this is understandable. However, the work of Spiezio, Volgy, and Imwalle presents some opportunities to look at causal mechanisms in some specific instances. For example, Spiezio identified an increase in conflict during Britain’s peak power years. Further research examining Britain’s role in the major international conflicts of this period could prove to be a worthwhile addition to the literature. Hegemonic stability theory has produced its fair share of scholarship in the years since Kindleberger’s research of the interwar period. While most of the literature has focused on hegemony’s effects on international economic relations, the work of Gilpin has led to some serious scholarship on hegemony’s effects on international security. Studies like those of Spiezio have been particularly valuable in advancing scholars’ understanding of the theory’s relevance to international security. Further research building on these quantitative studies would represent a meaningful contribution to the literature on hegemonic stability theory. A more thorough understanding of the effects of hegemony on international security would have implications far beyond the ivory tower. Studying the link between hegemony and violence has the potential to affect the practice as well as the theory of international relations. IV. Variables and Data Sources Broadly speaking, my hypothesis addresses two distinct questions. The first question is whether there is in fact, as Gilpin posited, an inverse relationship between the strength of the hegemon and the level of conflict in the international system. The second question I address is whether there is an inverse relationship between the quantity of military force used by the hegemon and the level of conflict in the international system. I study both of these questions using the test cases of British and American hegemony. Like Gilpin, I define British hegemony as encompassing the period from the end of the Napoleonic wars to the outbreak of World War II. Excluded from this analysis are the years 1915-1919, due to some highly suspect anomalies in the data regarding composite index of national capability. The American hegemonic period encompasses the years since the end of World War II until 1999, the last year for which reliable data is available. Determining the exact start and end dates of hegemony is something of a subjective enterprise. These dates were chosen because they seem to be the most commonly used in the existing literature, but finding a perfect start and end date is inherently controversial. Operationalization of the dependent and independent variables is a challenge of critical importance to the project. To determine the strength of the hegemon, I use the Composite Index of National Capability published by the Correlates of War Project. The Composite Index of National Capability is a statistical measure of national power that averages six different dimensions of relative strength to produce a single number between 0 and 1. Each dimension is weighted equally. A state with all the power in the international system would receive a CINC score of 1, whereas a state with absolutely no power in any dimension would receive a 0. For many years, international relations scholars were forced to rely on crude measures like GDP to gauge national strength. The Composite Index of National Capability is an improvement over these one-dimensional measures because it measures three different categories of power: economic, demographic, and military. While GDP may be acceptable as a measure of potential power, it does not reveal much about many important aspects of hegemony, such as a state’s capacity to undertake military action. Economic power is measured through the iron and steel production ratio and the primary energy consumption ratio. The iron and steel production ratio measures the nation’s iron and steel production in kilotons in a given year against the total amount produced in the world in that year. Since iron and steel are the primary products of blast furnaces, they are one of the best proxies for overall industrial strength that exists in a quantifiable form. The primary energy consumption ratio measures a nation’s energy consumption in a given year compared to total energy consumption in the world in that year. Energy consumption can take many forms, from electricity to gasoline to coal burning. The Correlates of War project converts all types of energy production into kilotons of coal equivalent. For example, if a nation consumed 1,000 cubic meters of natural gas, the energy represented by this gas would be represented in kilotons of coal. This makes it compile a single ratio that takes into account all energy types. Relative energy consumption is a useful gauge of economic capacity since it measures a quantitative commodity that can be compared from state-to-state and year-to-year. Demographic strength in the Composite Index of National Capability is measured using the total population ratio and the urban population ratio. The total population ratio measures the population of the state in question against the population of the world in a given year. There are several advantages a state with a larger population has in the international system. From a military standpoint, such a state can suffer greater losses during a time of war and can experience less acute labor shortages on the home front during such times. But simply measuring the number of people in a state fails to capture some of the more subtle benefits accrued by population. The Correlates of War project thus looks at urban populations for a more complete view, since they are “associated with higher education standards and life expectancies, with industrialization and industrial capacity, and with the concentrated availability of citizens who may be mobilized during times of conflict.” To count as an urban population, a city must have a population of at least 100,000 people. Of course, it is impossible to come up with completely objective definition of urban. Especially in the first part of the 19th century, many smaller cities could be unfairly discounted by this definition. However, the purpose of the urban population index is not to compare cities from different decades or centuries – its role is as a relative measure within a given year. Any analysis of hegemonic power would not be complete without a measure of military strength. Military strength in the Composite Index of National Capability is measured through the military expenditures ratio and the military personnel ratio. For purposes of the index, military personnel are defined as soldiers under the control of the federal government, meant for use against foreign enemies. Military police and reserves, for instance, are not counted in the total. Military expenditures are defined as the military budget for a given state in a given year. Rather than look at official military budgets, which can be unreliable, the Correlates of War Project focuses on what constitutes true military spending. For example, pension to veterans and war widows are excluded from the calculations, even if they were included in the state’s official military budget. My dependent variable, level of conflict, is also measured using data from the Correlates of War Project. Previous quantitative analyses of hegemony, such as that done by Spiezio in the 1980’s, examined only incidence of major power war. Unfortunately, this means that there are long “dry spells” in the data in which there are zero major power wars. At other points, the data contains only one or two major power conflicts during any given period. For statistical purposes, these data are less than ideal. By looking at frequency of military conflict, I avoided this statistical conundrum. The Correlates of War Project defines conflict as threat, display, or use of military force short of war. As an example of what constitutes such an institute, here is the Project’s summary of one dispute in 1997: USA patrol boats stopped and detained two Russian tankers suspected of carrying sanctioned Iraq oil from the Persian Gulf. Russian Foreign Minister demanded the immediate release of the tanker (“Dispute Narratives” 2004). Their database catalogues over 2,000 interstate militarized disputes in the years since 1815. Thus, it is a far less crude way of quantifying conflict in the international system. It also increases the reliability of quantitative analysis of hegemonic stability. To operationalize my second independent variable, use of military force by the hegemon, I simply extracted every incident where the hegemon used military force from the Correlates of War conflict data set. In other words, I took each instance of conflict in which the hegemon was a party and plotted it against the total amount of conflict in a given five-year period. To analyze these data, regression analysis is an appropriate tool. Using ordinary least-squared regression, I determined whether a linear relationship existed between the strength of the hegemon and the level of conflict in the international system. I also used regression analysis to determine the relationship between quantity of military force used by the hegemon and the level of conflict in the international system. There are some shortcomings to the approach presented above. None of the measures of national power that make up the Composite Index of National Capability are completely flawless. Particularly in the early years, data may not be as precise as would be ideal. Additionally, the index does not account for some of the more subtle psychological and political aspects of power. However, this is a problem inherent in doing quantitative analysis. It is impossible to measure intangible factors using hard numbers. The Composite Index of National Capability is a good way to measure a concept that is very difficult to quantify. The results of my statistical analysis should not be looked at as laws of international relations. The analysis should be valued for the questions it raises rather than the tentative answers it provides. V. Data Analysis The statistical tests performed resulted in some potentially interesting findings. The first set of data analyzed was the data on British hegemonic strength in comparison to armed conflict. As can be seen in the table below, British hegemonic strength is relatively high at the outset of the period covered, then begins a gradual decline in the later part of the century. By the 1930’s, Britain’s relative power is far lower than it was even at the outset of the hegemonic period. Correspondingly, international conflict is also higher in the final decades of focus than at any other time during the period of British hegemony. A graph of the relationship between the two variables puts this relationship into a visual context: Years Covered Conflicts CINC 1815-1819 5 0.327765 1820-1824 9 0.318672 1825-1829 9 0.328776 1830-1834 9 0.302717 1835-1839 13 0.303765 1840-1844 8 0.304156 1845-1849 15 0.305510 1850-1854 20 0.306360 1855-1859 24 0.292667 1860-1864 26 0.255963 1865-1869 15 0.251457 1870-1874 17 0.237007 1875-1879 24 0.231121 1880-1884 20 0.211896 1885-1889 24 0.197775 1890-1894 15 0.175833 1895-1899 29 0.167495 1900-1904 23 0.158162 1905-1909 30 0.120888 1910-1914 65 0.120462 1920-1924 46 0.105306 1925-1929 29 0.085634 1930-1934 32 0.079843 1935-1939 78 0.081023 Subjectively, the data in the table and the graph look as if they support the hypothesis, and more rigorous statistical analysis confirms this. Regression analysis reveals that the Pearson’s r-value for this data is -.754, a very strong negative correlation. Additionally, the data is highly significant, with a p-value of less than .0001. One objection that was raised to these results during their presentation was that including the years after 1914 in the British hegemonic period is controversial. Indeed, a strong argument could be made to end the period classified as hegemony in 1914. When the years after 1914 are excluded from the data, the results are still very robust. The correlation coefficient using data from this time period is -.732, a value very close to that obtained from the entire data set. The p-value is slightly higher at .0002, but is still statistically significant by even the most rigorous measures. Clearly, there is a strong negative correlation between British hegemonic strength and violent conflict. The next step was to determine if this relationship held true for the other period of hegemony captured by reliable data- that of United States hegemony. As can be seen in the table below, there are fewer data points to work with simply because there are fewer years of hegemony to work with. However, visually, the graph of this relationship looks quite similar to the one found for British hegemony: Years Covered CINC Conflicts 1945-1949 0.3251239 53 1950-1954 0.3014824 88 1955-1959 0.2491925 135 1960-1964 0.2095642 153 1965-1969 0.2041942 145 1970-1974 0.1659338 132 1975-1979 0.1412986 144 1980-1984 0.1350661 163 1985-1989 0.1396454 202 1990-1994 0.1468614 126 1995-1999 0.1464107 163 Statistical analysis confirms that the relationship found for British hegemony also holds for American hegemony. In fact, Pearson’s r is -.819 for this data set – indicating an even stronger correlation than that found between British hegemonic strength and violent conflict. Probably due to the smaller data set, the p-value is .002, still well beyond the threshold of statistical significance, but higher than the values found for British hegemony. In both of these cases, a clear negative correlation can be established between hegemonic power and violent conflict; the next question I sought to answer was why this relationship exists. The next logical step in terms of data analysis was to look at the relationship between the hegemon’s use of force and total force used in the international system. I had originally hypothesized that the relationship between the two variables would be negative, matching the results obtained regarding hegemonic power and conflict. However, this turned out not to be the case. As can be clearly seen in the table and graph below, there is actually quite a strong positive relationship between use of force by Britain and total force used in the international system: Year Brit. Conf. Tot. Conf. 1815-1819 0 5 1820-1824 0 9 1825-1829 3 9 1830-1834 5 9 1835-1839 7 13 1840-1844 4 8 1845-1849 7 15 1850-1854 4 20 1855-1859 7 24 1860-1864 8 26 1865-1869 1 15 1870-1874 1 17 1875-1879 4 24 1880-1884 6 20 1885-1889 10 24 1890-1894 4 15 1895-1899 11 29 1900-1904 7 23 1905-1909 2 30 1910-1914 9 65 1915-1919 17 102 1920-1924 10 46 1925-1929 4 29 1930-1934 3 32 1935-1939 12 78 Statistical analysis provides quantitative backing for this observation. The correlation coefficient is .772, a strong positive relationship. The data is also highly statistically significant, with a p-value of less than .0001. While the data is sound, it is also puzzling – despite the strong negative association between British strength and violent conflict, actual use of force by the hegemon was associated with higher levels of conflict. This result added new complexity to the research puzzle, but before drawing any conclusions, I decided it was advisable to apply the same test to American hegemony. The data presented in the table and graph below tells a similar story to that shown above, albeit with significantly fewer data points to work with: Year US Con. Tot. Con. 1945-1949 9 53 1950-1954 5 88 1955-1959 26 135 1960-1964 25 153 1965-1969 27 145 1970-1974 17 132 1975-1979 20 144 1980-1984 29 163 1985-1989 18 202 1990-1994 17 126 1995-1999 16 163 However, despite the smaller amount of data points, the relationship is still strong statistically, evincing a Pearson’s r-value of .617 – weaker than that found for British hegemony, yet noteworthy nonetheless. The p-value, at .043, is significant at the 5% but not the 1% level. Thus, although the data is not quite as strong, the results do confirm the puzzling results found for British hegemony. These results, though interesting, did not conform to my prior expectations. The assumption that hegemons act as a calming force in the international system by using its military strength had been severely questioned. Searching to further elucidate the complicated picture of hegemony that was emerging, I broke down the Composite Index of National Capability into its component parts, separating out military strength from overall strength. In so doing, my objective was to try and determine what exactly it is about hegemonic strength that associates it so well with conflict levels. The results of this analysis were very interesting indeed. For both British and American hegemony, military spending was actually a much weaker correlate with military conflict in the international system than the overall measure of national capability. With even a cursory glance at the British data, it is apparent that this relationship is somewhat less robust: Year Mil Spending Conflict 1815-1819 0.283492672 5 1820-1824 0.223980542 9 1825-1829 0.244338151 9 1830-1834 0.161932957 9 1835-1839 0.159536552 13 1840-1844 0.157939797 8 1845-1849 0.165964312 15 1850-1854 0.236642445 20 1855-1859 0.199187872 24 1860-1864 0.105697529 26 1865-1869 0.158806708 15 1870-1874 0.120699628 17 1875-1879 0.132513581 24 1880-1884 0.136076375 20 1885-1889 0.154986914 24 1890-1894 0.143970819 15 1895-1899 0.156745702 29 1900-1904 0.25129528 23 1905-1909 0.127524639 30 1910-1914 0.207172546 65 1920-1924 0.158597164 46 1925-1929 0.105356094 29 1930-1934 0.067395886 32 1935-1939 0.13870381 78 Statistical analysis confirms this impression: the correlation coefficient is -.245, still significant, but much less so than a measure that the overall measure of power. The weaker correlation does not necessarily mean that military strength has no value in predicting conflict, it just indicates that it is far from the complete picture. A similar story plays out when the data on American hegemony is analyzed: Year Military Spending Conflict 1945-1949 0.396074487 53 1950-1954 0.471776875 88 1955-1959 0.425786838 135 1960-1964 0.365564346 153 1965-1969 0.378224458 145 1970-1974 0.285955618 132 1975-1979 0.222681832 144 1980-1984 0.259814345 163 1985-1989 0.320110141 202 1990-1994 0.360196036 126 1995-1999 0.341913666 163 Statistical analysis of this data reveals that Pearson’s r-value is lower than in the data that looks at total national capability, measuring in at -.511, in comparison to the r-value of -.819 found when comparing total American capability to violent conflict levels. In fact, the relationship is even more tenuous than this still fairly large r-value suggests; the p-value is .108, and thus these results are not even statistically significant. If it is not military strength that is producing the strong association between violent conflict and hegemonic power, than what is? Data analysis of economic strength provides a potential answer to this question. Analysis of the economic data revealed a further surprise: the hegemon’s economic strength, measured in energy output, is a more accurate predictor of conflict level than military strength. In the case of Britain, the raw data looks similar to that for military strength: Year Econ Strength Conflict 1815-1819 0.853538089 5 1820-1824 0.840639128 9 1825-1829 0.812610895 9 1830-1834 0.788362747 9 1835-1839 0.749862405 13 1840-1844 0.720635622 8 1845-1849 0.687336635 15 1850-1854 0.644237745 20 1855-1859 0.579908461 24 1860-1864 0.545911899 26 1865-1869 0.500740641 15 1870-1874 0.465214556 17 1875-1879 0.442218083 24 1880-1884 0.390582117 20 1885-1889 0.34851341 24 1890-1894 0.309727031 15 1895-1899 0.282145134 29 1900-1904 0.238163843 23 1905-1909 0.199316659 30 1910-1914 0.176313819 65 1920-1924 0.138778427 46 1925-1929 0.114489304 29 1930-1934 0.127935668 32 1935-1939 0.117977629 78 Statistical analysis shows that the relationship is actually stronger than the relationship found between conflict and military spending. Pearson’s r-value is -.7398, compared to the -.245 r-value found in the analysis of British military spending. This result added more nuance to the picture of hegemonic governance that was emerging. When this analysis is applied to American economic power, a similar pattern emerges: 1945-1949 0.563718464 53 1950-1954 0.489165442 88 1955-1959 0.373312828 135 1960-1964 0.30090454 153 1965-1969 0.282157745 145 1970-1974 0.196508257 132 1975-1979 0.21354551 144 1980-1984 0.182688805 163 1985-1989 0.167266347 202 1990-1994 0.172330375 126 1995-1999 0.18656161 163 Regression analysis of this data shows that Pearson’s r-value is -.836. In the case of American hegemony, economic strength is a better predictor of violent conflict than even overall national power, which had an r-value of -.819. The data is also well within the realm of statistical significance, with a p-value of .0014. While the data for British hegemony was not as striking, the same overall pattern holds true in both cases. During both periods of hegemony, hegemonic strength was negatively related with violent conflict, and yet use of force by the hegemon was positively correlated with violent conflict in both cases. Finally, in both cases, economic power was more closely associated with conflict levels than military power. Statistical analysis created a more complicated picture of the hegemon’s role in fostering stability than initially anticipated. VI. Conclusions and Implications for Theory and Policy To elucidate some answers regarding the complexities my analysis unearthed, I turned first to the existing theoretical literature on hegemonic stability theory. The existing literature provides some potential frameworks for understanding these results. Since economic strength proved to be of such crucial importance, reexamining the literature that focuses on hegemonic stability theory’s economic implications was the logical first step. As explained above, the literature on hegemonic stability theory can be broadly divided into two camps – that which focuses on the international economic system, and that which focuses on armed conflict and instability. This research falls squarely into the second camp, but insights from the first camp are still of relevance. Even Kindleberger’s early work on this question is of relevance. Kindleberger posited that the economic instability between the First and Second World Wars could be attributed to the lack of an economic hegemon (Kindleberger 1973). But economic instability obviously has spillover effects into the international political arena. Keynes, writing after WWI, warned in his seminal tract The Economic Consequences of the Peace that Germany’s economic humiliation could have a radicalizing effect on the nation’s political culture (Keynes 1919). Given later events, his warning seems prescient. In the years since the Second World War, however, the European continent has not relapsed into armed conflict. What was different after the second global conflagration? Crucially, the United States was in a far more powerful position than Britain was after WWI. As the tables above show, Britain’s economic strength after the First World War was about 13% of the total in strength in the international system. In contrast, the United States possessed about 53% of relative economic power in the international system in the years immediately following WWII. The U.S. helped rebuild Europe’s economic strength with billions of dollars in investment through the Marshall Plan, assistance that was never available to the defeated powers after the First World War (Kindleberger 1973). The interwar years were also marked by a series of debilitating trade wars that likely worsened the Great Depression (Ibid.). In contrast, when Britain was more powerful, it was able to facilitate greater free trade, and after World War II, the United States played a leading role in creating institutions like the GATT that had an essential role in facilitating global trade (Organski 1958). The possibility that economic stability is an important factor in the overall security environment should not be discounted, especially given the results of my statistical analysis. Another theory that could provide insight into the patterns observed in this research is that of preponderance of power. Gilpin theorized that when a state has the preponderance of power in the international system, rivals are more likely to resolve their disagreements without resorting to armed conflict (Gilpin 1983). The logic behind this claim is simple – it makes more sense to challenge a weaker hegemon than a stronger one. This simple yet powerful theory can help explain the puzzlingly strong positive correlation between military conflicts engaged in by the hegemon and conflict overall. It is not necessarily that military involvement by the hegemon instigates further conflict in the international system. Rather, this military involvement could be a function of the hegemon’s weaker position, which is the true cause of the higher levels of conflict in the international system. Additionally, it is important to note that military power is, in the long run, dependent on economic strength. Thus, it is possible that as hegemons lose relative economic power, other nations are tempted to challenge them even if their short-term military capabilities are still strong. This would help explain some of the variation found between the economic and military data. The results of this analysis are of clear importance beyond the realm of theory. As the debate rages over the role of the United States in the world, hegemonic stability theory has some useful insights to bring to the table. What this research makes clear is that a strong hegemon can exert a positive influence on stability in the international system. However, this should not give policymakers a justification to engage in conflict or escalate military budgets purely for the sake of international stability. If anything, this research points to the central importance of economic influence in fostering international stability. To misconstrue these findings to justify anything else would be a grave error indeed. Hegemons may play a stabilizing role in the international system, but this role is complicated. It is economic strength, not military dominance that is the true test of hegemony. A weak state with a strong military is a paper tiger – it may appear fearsome, but it is vulnerable to even a short blast of wind.

### A2: Root Cause – Hegemony Solves

#### Heg solves all proximate causes of war

Owen 11 John M. Owen Professor of Politics at University of Virginia PhD from Harvard "DON’T DISCOUNT HEGEMONY" Feb 11 www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/

Andrew Mack and his colleagues at the Human Security Report Project are to be congratulated. Not only do they present a study with a striking conclusion, driven by data, free of theoretical or ideological bias, but they also do something quite unfashionable: they bear good news. Social scientists really are not supposed to do that. Our job is, if not to be Malthusians, then at least to point out disturbing trends, looming catastrophes, and the imbecility and mendacity of policy makers. And then it is to say why, if people listen to us, things will get better. We do this as if our careers depended upon it, and perhaps they do; for if all is going to be well, what need then for us?¶ Our colleagues at Simon Fraser University are brave indeed. That may sound like a setup, but it is not. I shall challenge neither the data nor the general conclusion that violent conflict around the world has been decreasing in fits and starts since the Second World War. When it comes to violent conflict among and within countries, things have been getting better. (The trends have not been linear—Figure 1.1 actually shows that the frequency of interstate wars peaked in the 1980s—but the 65-year movement is clear.) Instead I shall accept that Mack et al. are correct on the macro-trends, and focus on their explanations they advance for these remarkable trends. With apologies to any readers of this forum who recoil from academic debates, this might get mildly theoretical and even more mildly methodological.¶ Concerning international wars, one version of the “nuclear-peace” theory is not in fact laid to rest by the data. It is certainly true that nuclear-armed states have been involved in many wars. They have even been attacked (think of Israel), which falsifies the simple claim of “assured destruction”—that any nuclear country A will deter any kind of attack by any country B because B fears a retaliatory nuclear strike from A.¶ But the most important “nuclear-peace” claim has been about mutually assured destruction, which obtains between two robustly nuclear-armed states. The claim is that (1) rational states having second-strike capabilities—enough deliverable nuclear weaponry to survive a nuclear first strike by an enemy—will have an overwhelming incentive not to attack one another; and (2) we can safely assume that nuclear-armed states are rational. It follows that states with a second-strike capability will not fight one another.¶ Their colossal atomic arsenals neither kept the United States at peace with North Vietnam during the Cold War nor the Soviet Union at peace with Afghanistan. But the argument remains strong that those arsenals did help keep the United States and Soviet Union at peace with each other. Why non-nuclear states are not deterred from fighting nuclear states is an important and open question. But in a time when calls to ban the Bomb are being heard from more and more quarters, we must be clear about precisely what the broad trends toward peace can and cannot tell us. They may tell us nothing about why we have had no World War III, and little about the wisdom of banning the Bomb now.¶ Regarding the downward trend in international war, Professor Mack is friendlier to more palatable theories such as the “democratic peace” (democracies do not fight one another, and the proportion of democracies has increased, hence less war); the interdependence or “commercial peace” (states with extensive economic ties find it irrational to fight one another, and interdependence has increased, hence less war); and the notion that people around the world are more anti-war than their forebears were. Concerning the downward trend in civil wars, he favors theories of economic growth (where commerce is enriching enough people, violence is less appealing—a logic similar to that of the “commercial peace” thesis that applies among nations) and the end of the Cold War (which end reduced superpower support for rival rebel factions in so many Third-World countries).¶ These are all plausible mechanisms for peace. What is more, none of them excludes any other; all could be working toward the same end. That would be somewhat puzzling, however. Is the world just lucky these days? How is it that an array of peace-inducing factors happens to be working coincidentally in our time, when such a magical array was absent in the past? The answer may be that one or more of these mechanisms reinforces some of the others, or perhaps some of them are mutually reinforcing. Some scholars, for example, have been focusing on whether economic growth might support democracy and vice versa, and whether both might support international cooperation, including to end civil wars.¶ We would still need to explain how this charmed circle of causes got started, however. And here let me raise another factor, perhaps even less appealing than the “nuclear peace” thesis, at least outside of the United States. That factor is what international relations scholars call hegemony—specifically American hegemony.¶ A theory that many regard as discredited, but that refuses to go away, is called hegemonic stability theory. The theory emerged in the 1970s in the realm of international political economy. It asserts that for the global economy to remain open—for countries to keep barriers to trade and investment low—one powerful country must take the lead. Depending on the theorist we consult, “taking the lead” entails paying for global public goods (keeping the sea lanes open, providing liquidity to the international economy), coercion (threatening to raise trade barriers or withdraw military protection from countries that cheat on the rules), or both. The theory is skeptical that international cooperation in economic matters can emerge or endure absent a hegemon. The distastefulness of such claims is self-evident: they imply that it is good for everyone the world over if one country has more wealth and power than others. More precisely, they imply that it has been good for the world that the United States has been so predominant.¶ There is no obvious reason why hegemonic stability theory could not apply to other areas of international cooperation, including in security affairs, human rights, international law, peacekeeping (UN or otherwise), and so on. What I want to suggest here—suggest, not test—is that American hegemony might just be a deep cause of the steady decline of political deaths in the world.¶ How could that be? After all, the report states that United States is the third most war-prone country since 1945. Many of the deaths depicted in Figure 10.4 were in wars that involved the United States (the Vietnam War being the leading one). Notwithstanding politicians’ claims to the contrary, a candid look at U.S. foreign policy reveals that the country is as ruthlessly self-interested as any other great power in history.¶ The answer is that U.S. hegemony might just be a deeper cause of the proximate causes outlined by Professor Mack. Consider economic growth and openness to foreign trade and investment, which (so say some theories) render violence irrational. American power and policies may be responsible for these in two related ways. First, at least since the 1940s Washington has prodded other countries to embrace the market capitalism that entails economic openness and produces sustainable economic growth.

## Terrorism

### Link

#### Executive power is key to crisis response and preventing terrorism

Posner 12 (Eric, University of Chicago Law, “Deference to the Executive in the United States After September 11: Congress, the Courts, and the Office of Legal Counsel”, <http://ericposner.com/DEFERENCE%20TO%20THE%20EXECUTIVE.pdf>)

Let us consider the stages in reverse order. We already have addressed some of the problems with Professor Holmes's argument from protocols. Rules are seldom as bright-line as they first appear. They often turn out to be presumptions which are themselves subject to standards (drive under the speed limit unless there is an emergency). It is true that security threats, like medical emergencies, often fall into patterns and can be addressed in partially rule-governed fashion. Thus, when a gunman takes a hostage, the police follow certain rules: first clearing the area, then making contact with the gunman, and so on. Some officers will be given very simple rule-governed tasks ("don't let anyone cross this line"). But the rules quickly give out. Every hostage-taker is different, and the most highly trained police officers will be given a great deal of discretion to deal with him and to make the crucial decision to use force. But even these types of threats are simple compared with the scenario that opened up on September 11. The government knew virtually nothing about the nature of the threat. It did not know how many more members of al Qaeda were in the United States, what their plans were, what resources were at their disposal, what their motives were, or how much support they had among American Muslims. Protocols were worthless because nothing like the attack had ever happened before. (The closest analogy seemed to be the absurdly irrelevant example of Pearl Harbor.) The government could not follow rules; it had to improvise subject to a vague standard—protect the public while maintaining civil liberties to the extent possible. Improvise it did—instituting detentions, sweeps, profiling, surveillance, and many other policies on an unprecedented (in peacetime, if that was what it was) scale. For the rule-application stage, the deference thesis counsels Congress and the judiciary to (presumptively) defer. Congress simply cannot set about holding hearings, debating policy, and voting on laws in the midst of emergency. Either the problem will not be addressed, or Congress will end up voting on a bill that it has not written, debated, or even read.3° For courts, too, the alternatives are unrealistic. If courts enforce rules developed for normal times, then they will interfere with the proper response to the terrorist threat, just as they would if they required the U.S. military to comply with the Fourth Amendment on the battlefield. Alternatively, the courts could insist on applying a standard and halt executive actions that, in the courts' view, violated the standard described above—protect the nation while maintaining civil liberties to the extent possible. But here the courts are at a significant disadvantage. They do not have information about the nature of the threat. Courts can demand this information from the government, but the government will not give it to them because the government fears leaks (to say nothing of recalcitrance caused by rivalries among intelligence agencies). Moreover, judges are inexperienced in national security unlike the specialists in the executive branch.

#### Deference to the president is key to fighting terrorism

Posner 12 (Eric, University of Chicago Law, “Deference to the Executive in the United States After September 11: Congress, the Courts, and the Office of Legal Counsel”, <http://ericposner.com/DEFERENCE%20TO%20THE%20EXECUTIVE.pdf>)

The government maintained the confidentiality of a constant supply of intelligence, for fear of exposing sources and methods. 3\* Meanwhile, the government was already taking secret actions (many of which were later exposed), including tapping cell phone calls, tracking monetary transfers, and infiltrating terrorist organizations. Optimal policy going forward necessarily depended on secrecy. Policy X, which might seem plausible given publicly available information, might tum out to be unnecessary, redundant, or even counterproductive in light of secret information about the activities of al Qaeda or secret Policy Y. Thus, although Congress could no doubt give useful advice, it seems hard to believe that it could have contributed much to the development of counterterrorism tactics, any more than it can contribute to military tactics (where to invade, where to bomb) during a regular war. A set of constitutional protocols normally applies to the making of policy and its embodiment in government action. The executive must act with Congress, and it must respect the courts; it cannot act by itself. But these rules apply to normal times, and the medical protocol analogy is of little use here. Medical protocols do not need to be secret because pafients have no incenfive to game them—unlike terrorists who benefit greatly from knowing the methods that the United States uses to spy on them, capture them, and interrogate them. Furthermore, medical protocols are not based on secret informafion; they are based on widely available medical research. Thus, when medical researchers develop medical protocols at the rule development stage, they can do so publicly without undermining the purpose of developing the protocols in the first place. By contrast, rules governing counterterrorism operations must be developed mostly in secret, and mostly on the basis of secret informafion. Hence the importance of keeping rule development as much as possible within the only branch that possesses the power to act against security threats. Those rules, of course, would constrain only lower-level executive agents, not the executive itself. There is an obvious reason for this; if the rules are wrong, they need to be corrected. It would similarly make little sense for doctors to develop emergency room protocols that could never be changed in the future as new technologies and new health problems rendered the old protocols worthless.

### AT – Civilian Deaths

#### Drones are an example of reflexive counterterrorism – More ethical than previous strategies

Anderson 13 (Kenneth, Professor of Law, Visiting Fellow, The Hoover Institution on War, Revolution and Peace, Stanford University, “The Case for Drones”, 5/24/13, <http://www.realclearpolitics.com/articles/2013/05/24/the_case_for_drones_118548.html>)

Barack Obama campaigned for his first presidential term on the platform of ending America’s wars. Obama voters and much of the rest of the world figured this promise referred not only to the conventional conflicts in Iraq and Afghanistan, but also to what liberals considered the long and unnecessary national nightmare of the war on terror. It now seems clear he was misunderstood—though we don’t know yet whether the misunderstanding was by Obama’s design or due to changes that took place after he assumed office. Obama’s policy proved not to be “peace breaks out.” It was, rather, that America would wind down its two counterinsurgency, boots-on-the-ground wars and undertake a refocused effort against the terrorists who had set this all in motion. He framed it this way during the 2008 race. “If Pakistan cannot or will not take out al-Qaeda leadership when we have actionable intelligence about their whereabouts,” he said on the campaign trail, “we will act to protect the American people. There can be no safe haven for al-Qaeda terrorists.” No safe havens—that has been Barack Obama’s strategic lodestar in the war on terror. It is this proposition, more than any other, that gets us to drone warfare. Even as Obama publicly disdained the institutions and methodologies of Bush’s war on terror, he was issuing a new call to arms in that war. Taking the fight directly to the enemy required a means of combat other than counterinsurgency warfare on the ground, and the United States turned to a technology the Israelis had used effectively in their war against Palestinian terrorists: unmanned surveillance drones, now weaponized. This tool had been used during the Bush administration, but sparingly-—largely due to geopolitical fears, but also because it was only by the second Bush term that the CIA had established ground-level human-intelligence networks in Afghanistan and Pakistan sufficient for making independent targeting decisions without having to rely on the questionable and self-interested information coming from Pakistan’s intelligence services. The strategy has worked far better than anyone expected. It is effective, and has rightfully assumed an indispensable place on the list of strategic elements of U.S. counterterrorism-on-offense. But it is not only a strategy of effectiveness, convenience, and necessity. Drone warfare offers ethical advantages as well, allowing for increased discrimination in time, manner, and targeting not available via any other comparable weapon platform. As such, it lends civilians in the path of hostilities vastly greater protection than does any other fighting tool. Drone warfare is an honorable attempt to seek out terrorists and insurgents who hide among civilians. The expansion into automated and robotic military equipment owes much to the ethical impulse to create new technologies of discrimination when fighting enemies for whom unwitting civilian shields were their main materiel of war. Moreover, these are weapons that gain much of their discrimination in use from the fact that U.S. forces are not directly at personal risk and are thus able to take time to choose a moment to attack when civilians might be least at risk. Remoteness—the fact that the drone user is nowhere near the target, as the pilot is probably sitting in an air-conditioned room in Nevada—actually enables precision.

#### Drones aren’t perfect but they demonstrate reflexivity

Anderson 13 (Kenneth, Professor of Law, Visiting Fellow, The Hoover Institution on War, Revolution and Peace, Stanford University, “The Case for Drones”, 5/24/13, <http://www.realclearpolitics.com/articles/2013/05/24/the_case_for_drones_118548.html>)

Yet irrespective of what numbers one accepts as the best estimate of harms of drone warfare, or the legal proportionality of the drone strikes, the moral question is simply, What’s the alternative? One way to answer this is to start from the proposition that if you believe the use of force in these circumstances is lawful and ethical, then all things being equal as an ethical matter, the method of force used should be the one that spares the most civilians while achieving its lawful aims. If that is the comparison of moral alternatives, there is simply no serious way to dispute that drone warfare is the best method available. It is more discriminating and more precise than other available means of air warfare, including manned aircraft—as France and Britain, lacking their own drones and forced to rely on far less precise manned jet strikes, found over Libya and Mali—and Tomahawk cruise missiles. A second observation is to look across the history of precision weapons in the past several decades. I started my career as a human-rights campaigner, kicking off the campaign to ban landmines for leading organizations. Around 1990, I had many conversations with military planners, asking them to develop more accurate and discriminating weapons—ones with smaller kinetic force and greater ability to put the force where sought. Although every civilian death is a tragedy, and drone warfare is very far from being the perfect tool the Obama administration sometimes suggests, for someone who has watched weapons development over a quarter century, the drone represents a steady advance in precision that has cut zeroes off collateral-damage figures. Those who see only the snapshot of civilian harm today are angered by civilian deaths. But barring an outbreak of world peace, it is foolish and immoral not to encourage the development and use of more sparing and exact weapons. One has only to look at the campaigns of the Pakistani army to see the alternatives in action. The Pakistani military for many years has been in a running war with its own Taliban and has regularly attacked villages in the tribal areas with heavy and imprecise airstrikes. A few years ago, it thought it had reached an accommodation with an advancing Taliban, but when the enemy decided it wanted not just the Swat Valley but Islamabad, the Pakistani government decided it had no choice but to drive it back. And it did, with a punishing campaign of airstrikes and rolling artillery barrages that leveled whole villages, left hundreds of thousands without homes, and killed hundreds.

#### Drones are used responsibly – Their evidence is based on unreliable anecdotes

Etzioni 13 (Amitai, Professor of international relations at The George Washington University, “Everything Libertarians and Liberals Get Wrong About Drones”, 4/30/13, <http://www.theatlantic.com/politics/archive/2013/04/everything-libertarians-and-liberals-get-wrong-about-drones/275356/>)

As true as that may be in theory, the critics reply, in practice the use of drones has been reckless and caused significant collateral damage. However, it is difficult to reach conclusive judgments, as neither critics nor proponents of drones are actually there to observe the effects of drone strikes. Instead, we often have to rely upon reports from locals, who are notoriously unreliable. Contrary to these claims, the military insists that they take all possible precautions, and those on the front lines report that that the review process is rigorous to the point of causing delays that have allowed terrorists to escape. Moreover, even if these claims are true, drones at least have the potential of being carefully reviewed; this cannot be stated about other means of warfare.

### Nuke Terror Likely

#### Nuclear terror attack by Al Qaeda is highly probably – They can’t in the squo because of drones

Montgomery 10 (Evan, Senior Fellow at the Center for Strategic and Budgetary Assessments, “Understanding the Threat of Nuclear Terrorism”, 4/2/10, <http://www.csbaonline.org/publications/2010/04/understanding-the-threat-of-nuclear-terrorism/>)

There are two major dimensions of the nuclear terrorist threat: the “supply” side of nuclear proliferation and the “demand” side of violent Islamist extremism. Over the past decade, longstanding concerns over proliferation have become increasingly acute in light of a number of worrisome developments, including the status of India and Pakistan as overt nuclear weapon states, North Korea’s two nuclear weapons tests, the international community’s failure to restrain Iran’s nuclear ambitions, and the fear that an Iranian nuclear weapons program could spark further proliferation throughout the Middle East. Ultimately, while existing nuclear arsenals and stockpiles of fissile material represent the most immediate concern, the spread of nuclear weapons and material has increased the probability that terrorists might be able to acquire or construct a nuclear device. At the same time that nuclear proliferation has become a growing concern, terrorism has also been elevated from a secondary to a primary threat to US security because of the emergence of groups that have few inhibitions on inflicting mass casualties by means of chemical, biological, and even nuclear weapons. Today, for example, the threat of nuclear terrorism is primarily associated with Osama bin Laden and his followers, who have not only pursued these weapons for some time, but have expressed their willingness to use them against their enemies. Since the US invasion of Afghanistan in 2001, however, al Qaeda has lost a key sanctuary and much of its original senior leadership. Does it still hope to acquire and use weapons of mass destruction? is it capable of obtaining or building a nuclear weapon? The answer to the first question appears to be “yes.” Publicly available information leaves little doubt that the group’s intentions remain unchanged. Nevertheless, al Qaeda appears to be much less capable of conducting a major attack against the United States, and especially a catastrophic attack using a nuclear weapon, than it was when it had a base of operations in Afghanistan. After the downfall of the Taliban regime, al Qaeda evolved into an increasingly decentralized organization. Moreover, as the influence and capabilities of its central leadership have waned, the source of the terrorist threat has shifted toward regional groups affiliated with al Qaeda and homegrown extremists inspired by it, neither of which are likely to possess the knowledge, skills, resources, or discipline necessary to plan and successfully carry out a nuclear attack. Until fairly recently, however, numerous accounts suggested that al Qaeda’s core leadership was in the process of reestablishing its ability to organize and execute major attacks, due in large part to its sanctuary in the remote areas of Pakistan. Yet according the United States intelligence Community this concern has diminished over the past year due to ongoing counterterrorism efforts, including repeated strikes against terrorist operatives using unmanned aerial vehicles operating in Pakistan. These efforts “have put the organization into one of its most difficult positions since the early days of Operation Enduring Freedom in late 2001,” and have also “dealt a significant blow to al-Qa’ida’s near-term efforts to develop a sophisticated CBRN [chemical, biological, radiological, or nuclear] attack capability.” An analysis of the supply and demand sides of the nuclear terrorist threat suggests two major conclusions. First, limiting and preferably stopping any further proliferation of nuclear weapons and the technology to produce nuclear material is and will remain an important goal. At present, this goal hinges largely on Iran — if Tehran does pursue and develop nuclear weapons, this could be the catalyst for a wave of proliferation in the Middle East. As one analyst notes, “The real danger is that Iran’s nuclearization would help create a region in which four or five nations are nuclear-armed, instead of just one (Israel).” Yet stopping Iran from becoming a nuclear weapon state, while certainly desirable, may not be feasible through diplomacy, economic sanctions, or even military action. The United States must, therefore, work to develop a comprehensive strategy to prevent further proliferation in the region if and when Iran does become a full-fledged nuclear power. Second, because there is a very strong probability that any credible plot to conduct a nuclear terrorist attack will originate with al Qaeda’s central leadership, a critical component of a broader strategy to prevent such an attack will involve continued efforts to weaken al Qaeda’s leaders and eliminate — or at the very least restrict — their sanctuary in Pakistan.

#### Nuke terror is likely – Consensus of 120 countries – Dismantling Al Qaeda capabilities is key

Dahl 7/1 (Fredrik, Reuters nuclear correspondent, “Governments warn about nuclear terrorism threat”, 7/1/13, <http://www.reuters.com/article/2013/07/01/us-nuclear-security-idUSBRE96010E20130701>)

A declaration adopted by more than 120 states at the meeting said "substantial progress" had been made in recent years to improve nuclear security globally, but it was not enough. Analysts say radical groups could theoretically build a crude but deadly nuclear bomb if they had the money, technical knowledge and materials needed. Ministers remained "concerned about the threat of nuclear and radiological terrorism ... More needs to be done to further strengthen nuclear security worldwide", the statement said. The document "encouraged" states to take various measures such as minimizing the use of highly-enriched uranium, but some diplomats said they would have preferred firmer commitments. Many countries regard nuclear security as a sensitive political issue that should be handled primarily by national authorities. This was reflected in the statement's language. Still, Yukiya Amano, director general of the International Atomic Energy Agency (IAEA), which hosted the conference, said the agreement was "very robust" and represented a major step forward. RADICAL GROUPS' "NUCLEAR AMBITIONS" Amano earlier warned the IAEA-hosted conference against a "false sense of security" over the danger of nuclear terrorism. Holding up a small lead container that was used to try to traffic highly enriched uranium in Moldova two years ago, the U.N. nuclear chief said it showed a "worrying level of knowledge on the part of the smugglers". "This case ended well," he said, referring to the fact that the material was seized and arrests were made. But he added: "We cannot be sure if such cases are just the tip of the iceberg." Obtaining weapons-grade fissile material - highly enriched uranium or plutonium - poses the biggest challenge for militant groups, so it must be kept secure both at civilian and military facilities, experts say. An apple-sized amount of plutonium in a nuclear device and detonated in a highly populated area could instantly kill or wound hundreds of thousands of people, according to the Nuclear Security Governance Experts Group (NSGEG) lobby group. But experts say a so-called "dirty bomb" is a more likely threat than a nuclear bomb. In a dirty bomb, conventional explosives are used to disperse radiation from a radioactive source, which can be found in hospitals or other places that are generally not very well protected. More than a hundred incidents of thefts and other unauthorized activities involving nuclear and radioactive material are reported to the IAEA every year, Amano said. "Some material goes missing and is never found," he said. U.S. Energy Secretary Ernest Moniz said al Qaeda was still likely to be trying to obtain nuclear material for a weapon. "Despite the strides we have made in dismantling core al Qaeda we should expect its adherents ... to continue trying to achieve their nuclear ambitions," he said.

#### Materials theft is easy – Broad international consensus that the threat is real

Brill and Luongo 12 (Kenneth C. Brill is a former U.S. ambassador to the I.A.E.A.Kenneth N. Luongo is president of the Partnership for Global Security. Both are members of the Fissile Material Working Group, a nonpartisan nongovernmental organization, “Nuclear Terrorism: A Clear Danger”, 3/15/12, <http://www.nytimes.com/2012/03/16/opinion/nuclear-terrorism-a-clear-danger.html>)

There is a consensus among international leaders that the threat of nuclear terrorism is real, not a Hollywood confection. President Obama, the leaders of 46 other nations, the heads of the International Atomic Energy Agency and the United Nations, and numerous experts have called nuclear terrorism one of the most serious threats to global security and stability. It is also preventable with more aggressive action. At least four terrorist groups, including Al Qaeda, have demonstrated interest in using a nuclear device. These groups operate in or near states with histories of questionable nuclear security practices. Terrorists do not need to steal a nuclear weapon. It is quite possible to make an improvised nuclear device from highly enriched uranium or plutonium being used for civilian purposes. And there is a black market in such material. There have been 18 confirmed thefts or loss of weapons-usable nuclear material. In 2011, the Moldovan police broke up part of a smuggling ring attempting to sell highly enriched uranium; one member is thought to remain at large with a kilogram of this material. A terrorist nuclear explosion could kill hundreds of thousands, create billions of dollars in damages and undermine the global economy. Former Secretary General Kofi Annan of the United Nations said that an act of nuclear terrorism “would thrust tens of millions of people into dire poverty” and create “a second death toll throughout the developing world.” Surely after such an event, global leaders would produce a strong global system to ensure nuclear security. There is no reason to wait for a catastrophe to build such a system. The conventional wisdom is that domestic regulations, U.N. Security Council resolutions, G-8 initiatives, I.A.E.A. activities and other voluntary efforts will prevent nuclear terrorism. But existing global arrangements for nuclear security lack uniformity and coherence. There are no globally agreed standards for effectively securing nuclear material. There is no obligation to follow the voluntary standards that do exist and no institution, not even the I.A.E.A., with a mandate to evaluate nuclear security performance. This patchwork approach provides the appearance of dealing with nuclear security; the reality is there are gaps through which a determined terrorist group could drive one or more nuclear devices. Obama’s initiative in launching the nuclear security summit process in Washington in 2010 helped focus high-level attention on nuclear security issues. Unfortunately, the actions produced by the 2010 Washington Summit and that are planned for the upcoming Seoul Summit are voluntary actions that are useful, but not sufficient to create an effective global nuclear security regime. The world cannot afford to wait for the patchwork of nuclear security arrangements to fail before they are strengthened. Instead, we need a system based on a global framework convention on nuclear security that would fill the gaps in existing voluntary arrangements. This framework convention would commit states to an effective standard of nuclear security practices, incorporate relevant existing international agreements, and give the I.A.E.A. the mandate to support nuclear security by evaluating whether states are meeting their nuclear security obligations and providing assistance to those states that need help in doing so.

## Case

### Cirvumvention

#### Obama will circumvent the plan

Anita Kumar 13, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” 3/19 <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

#### Obama will cherry-pick definitions of “hostilities” to engage in conflict – tanks whole aff

Schwinn 11 – Professor of Law @ U Chicago

(Steven D., “Why U.S. Operations in Libya are not "Hostilities" under the WPR,” http://lawprofessors.typepad.com/conlaw/2011/06/why-us-operations-in-libya-are-not-hostilities-under-the-wpr.html)

State Department Legal Adviser Harold Koh on Tuesday gave the administration's case for why U.S. operations in Libya are not "hostilities" under the War Powers Resolution, and therefore why the administration is not violating the WPR in not either gaining congressional authorization or withdrawing U.S. forces after the WPR's 60-day deadline passed. Koh testified along with Louis Fisher and Prof. Peter Spiro (Temple) before the Senate Foreign Relations Committee.¶ Koh relied on the administration's understanding at the time of enactment of the WPR and subsequent practice to make his case:¶ In this case, leaders of the current Congress have stressed this very concern in indicating that they do not believe that U.S. military operations in Libya amount to the kind of "hostilities" envisioned by the War Powers Resolution's 60-day pullout provision. The historical practice supports this view. In 1975, Congress expressly invited the Executive Branch to provide its best understanding of the term "hostilities." My predecessor Monroe Leigh and Defense Department General Counsel Martin Hoffmann responded that, as a general matter, the Executive Branch understands the term "to mean a situation in which units of the U.S. armed forces are actively engaged in exchanges of fire with opposing units of hostile forces." . . . In the third-six years since Leigh and Hoffmann provided their analysis, the Executive Branch has repeatedly articulated and applied these foundational understandings.¶ Testimony, at 6-7. Koh went on to argue that the mission is limited, the exposure of U.S. armed forces is limited, the risk of escalation is limited, and military means are limited. Together, these mean that the operations are not "hostilities" under the WPR, and the President isn't violating the pull-out provision by failing to gain congressional approval and yet continuing the engagement.¶ Koh urged the Senate to adopt Senate Joint Resolution 20, the Kerry-McCain bill authorizing limited use of U.S. forces in Libya, but only so that the U.S. Government could show a united front--and not because it's constitutionally necessary.¶ Fisher responded point-by-point to the administration's claims (or "doubletalk") throughout the Libyan debates, including the OLC's conclusion that the operations are not a "war" under the Declaration of War Clause and the administration's conclusion that the operations are not "hostilities" under the WPR. Spiro found a middle ground, focusing less on the constitutionality of the pull-out provision and ultimately on the political and pragmatics of it:¶ Does this mean that section 5(b) is unconstitutional? That question may better be left to the court of history. Although presidents may not declare the Act unconstitution, from the Reagan Administration onward they have been careful not to concede the point. They have good cause to avoid the distraction of constitutional confrontation where a more minimalist argument will serve the same end.¶ On the other hand, Congress has no real need of the provision, lack of respect for which reflects poorly on the institution. Congress has ample tools with which to control presidential deployments of U.S. armed forces. . . . In coming years we may well witness a trend towards greater congressional participation in decisions relating to the use of U.S. armed forces.¶ In any event, devising a position of the Congress with respect to the operatiosn in Libya should be the primary task at hand. Disputes relating to the War Powers Resolution are likely to distract from that undertaking. I believe we would be having the same sort of discussion today even if the War Powers Resolution had not been enacted. The persistent cloud over the Act underlines the perception of some that Congress is ill-equipped in this realm. Congress would be better served by focusing on other institutional tools for participating in the full spectrum of use-of-force decisions.¶ Spiro Testimony, at 5.¶ For some, even many, however, the issue now is less whether the administration has a plausible claim that U.S. operations in Libya are not WPR "hostilities," and more why the President seemed to cherry-pick advice from his legal advisors. There's nothing unconstitutional about this kind of cherry-picking, but it smacks of the kind of decision-making that led to opinions in the Bush administration relating to, among other things, torture.

#### “Hostilities” in the plan tanks solvency

Koh 11 – legal adviser for Dept. of State

(Harold, STATEMENT OF HON. HAROLD KOH, LEGAL ADVISER, U.S. DEPARTMENT OF STATE, WASHINGTON, DC, FAS, http://www.fas.org/irp/congress/2011\_hr/libya.pdf)

But as everyone recognizes, the legal trigger for the automatic pullout clock, ‘‘hostilities’’ is an ambiguous term of art that is defined nowhere in the statute. The legislative history, which we cite, makes clear there was no agreed-upon view of exactly what the term ‘‘hostilities’’ would encompass, nor has that standard ever been defined by any court or by Congress itself.¶ From the start, legislators disagreed about the meaning of the term and the scope of the 60-day pullout rule and whether a particular set of facts constitutes hostilities for purposes of the resolution has been determined less by a narrow parsing of dictionary definitions than by interbranch practice. The Members of Congress who drafted the War Powers Resolution understood that this resolution is not like the Internal Revenue Code. Reading the War Powers Resolution should not be a mechanical exercise. The term ‘‘hostilities’’ was vague but they declined to give it more concrete meaning in part to avoid hampering future Presidents by making the resolution a one-size-fits-all straitjacket that would operate mechanically without regard to the facts.

#### Failure to cast a wider net than “hostilities” tanks solvency

Raven-Hansen 98 – Professor of Law @ George Washington

(Peter, “The War Powers Resolution: Origins, History, Criticism and Reform: Chapter 9: Legislative Reforms,” 2 J. Nat'l Security L. 157, Lexis)

The key to the strong bill is its definition of the use of "United States armed forces abroad." By omitting any reference to force or hostilities, this definition extends the general scope of the strong bill to all uses of armed forces abroad for any purpose other than training, replacement, repair or supply. As noted above, whether or not Congress is constitutionally obliged to approve all such uses, it enjoys the exclusive constitutional authority to pay for them. The power of the purse belongs to Congress which, at least, entitles it to information and consultation about uses of force that the President may unilaterally order. Moreover, many such uses--such as the massive deployment of offensive forces in Operation Desert Shield--carry a substantial risk of escalation into uses of force that Congress must authorize. Initially, then, a strong bill should cast its net broadly to encompass all deployments of armed forces. On the other hand, it need not extend to deployments of covert or non-U.S. paramilitary forces to the extent that these already fall within the express scope of intelligence oversight legislation. n19

#### Obama will ignore the plan

TPM 11 (Talking Points Memo, “Clinton To Congress: Obama Would Ignore Your War Resolutions”, 3/30/11, <http://tpmdc.talkingpointsmemo.com/2011/03/clinton-tells-house-obama-would-ignore-war-resolutions.php>)

Rep. Brad Sherman (D-CA), who asked Clinton about the War Powers Act during a classified briefing, said Clinton and the administration are sidestepping the measure’s provisions giving Congress the ability to put a 60-day time limit on any military action. “They are not committed to following the important part of the War Powers Act,” he told TPM in a phone interview. “She said they are certainly willing to send reports [to us] and if they issue a press release, they’ll send that to us too.” The White House would forge ahead with military action in Libya even if Congress passed a resolution constraining the mission, Secretary of State Hillary Clinton said during a classified briefing to House members Wednesday afternoon. Clinton was responding to a question from Rep. Brad Sherman (D-CA) about the administration’s response to any effort by Congress to exercise its war powers, according to a senior Republican lawmaker who attended the briefing. The answer surprised many in the room because Clinton plainly admitted the administration would ignore any and all attempts by Congress to shackle President Obama’s power as commander in chief to make military and wartime decisions. In doing so, he would follow a long line of Presidents who have ignored the act since its passage, deeming it an unconstitutional encroachment on executive power.

#### Obama ignores statutory restrictions on war powers and congress doesn’t care

Thompson 8/26 (Mark, Pulitzer Prize winning national security writer for Time, “Obama Can Strike Syria Unilaterally”, 8/26/13, <http://swampland.time.com/2013/08/26/obama-can-strike-syria-unilaterally/>)

For better or worse, there’s also very little doubt that President Obama—should he choose to do so—can retaliate against Syrian targets for their use without approval from the American people, or their elected representatives in Congress. Just like he did in Libya two years ago. For Americans brought up to believe only Congress can declare—and pay for—war, it’s worth noting that such legal niceties have loopholes big enough to fly cruise missiles through. And that is apparently what the U.S. military has in mind, as it beefs up its fleet of Tomahawk-cruise-missile-carrying warships in the eastern Mediterranean Sea, a chip shot from dozens of military and government targets scattered across Syria. Four destroyers are loitering in the region, awaiting orders. At a news conference on Sunday in Malaysia, Defense Secretary Chuck Hagel said he’d prepared “options for all contingencies” at the President’s request. “We are prepared to exercise whatever option if he decides to employ one of those options.” “I think it’s very evident that the regime has acted in this way,” Senator Bob Corker, a Republican from Tennessee, told Fox News Sunday. “I think we will respond in a surgical way.” But he urged Obama to wait two weeks until Congress returns from its summer break to give any military attack its blessing. Don’t count on that happening. A Reuters poll released over the weekend shows that 60% of Americans oppose U.S. intervention in Syria. Only 9% support U.S. military action. That leaves Obama with a tough choice: do something most Americans don’t want done, or show that his warning to Assad last year—that the Syrian government’s use of chemical weapons would be a “redline” requiring a U.S. response—is a hollow threat. The purported Syrian government action in a suburb of the capital of Damascus killed hundreds on Wednesday. If confirmed, it would represent the deadliest such attack since the late Saddam Hussein gassed thousands of Iraqi Kurds a quarter-century ago. Syria’s government said on Sunday it had evidence that the rebels battling Assad had used the weapons. It warned that a U.S. military strike against government targets would “create a ball of fire that will inflame the Middle East.” Syria said it would allow U.N. inspectors to visit the site of the attacks beginning Monday (their assignment is to determine only if chemical weapons were used—not determine who used them). U.S. officials suggested the move had come too late to avoid some kind of military response. The passage of time since the alleged attack means it will be tougher for the U.N. to investigate the possible use of chemical agents. If Obama elects to attack, his downside is minimized because, Pentagon officials say, any such missile strike is likely to be of the “slap” variety—a barrage designed to punish Assad for using chemical weapons—but of insufficient magnitude or duration to force him from power. That would let Obama say he has punished the Syrian strongman without committing the U.S. military to a long-term conflict. (Of course, the President also said Assad should leave office two years ago, but that’s a separate issue.) Russia and Iran, Assad’s key allies, are paying close attention to the marker Obama put down last year. “America knows the limitation of the redline of the Syrian front,” said Massoud Jazayeri, deputy chief of staff of the Iranian military, according to Tehran’s Fars News Agency. “Any crossing of Syria’s redline will have severe consequences for the White House.” Washington graybeards like to point out that only Congress can declare war, and only Congress can appropriate the funds to wage war. Technically speaking, that’s true. But it is also irrelevant. The nation has been on a slippery slope for decades, steadily shifting the power to both launch and wage war away from Congress, and toward the President. The last war Congress declared was World War II. Everything since—Korea, Vietnam, Grenada, Panama, Iraq, Bosnia, Afghanistan, Iraq (again!) and Libya—has been fought with something less than a full-throated declaration of war by the U.S. Congress. Generally speaking, the President likes this, since he doesn’t have to convince Congress of the wisdom of his war, and Congress likes it even more. Under the current system, lawmakers get to wink at the White House by passing an authorization for the use of military force or other purported justification as a fig leaf they can abandon if things go sour. A declaration of war demands more, and Congress is leery of going on the record with such declarations for its own political reasons.

#### Courts won’t enforce restrictions

Mataconis 11 (Doug, “Ten Congressmen Sue President Obama Over Libya Mission, War Powers Act”, 6/15/11, <http://www.outsidethebeltway.com/ten-congressman-sue-president-obama-over-libya-mission-war-powers-act/>)

Ten Members of Congress, represented by George Washington University Law Professor Jonathan Turley, have filed a lawsuit against President Obama seeking a Declaratory Judgment that he has violated the War Powers Act by failing to get Congressional approval for the mission in Libya: Reps. Dennis Kucinich and Walter Jones continued their bipartisan quest to end the U.S. military’s participation in the conflict in Libya, filing a lawsuit Tuesday in federal court against President Obama to “challenge the commitment of the United States to war in Libya absent the required constitutional legal authority.” The lawsuit challenges what the lawmakers see as “the executive branch’s circumvention of Congress and its use of international organizations such as the United Nations and the North Atlantic Treaty Organization to authorize the use of military force abroad, in violation of the Constitution.” “With regard to the war in Libya, we believe that the law was violated. We have asked the courts to move to protect the American people from the results of these illegal policies,” Kucinich said in a statement announcing the suit. The lawsuit is signed by a bipartisan group of members of the House, including Kucinich (D-Ohio), Jones (R-North Carolina), Howard Coble (R-North Carolina), John Duncan (R-Tennessee), Roscoe Bartlett (R-Maryland), John Conyers (D-Michigan) Ron Paul (R-Texas), Michael Capuano (D-Massachusetts), Tim Johnson (R-Illinois) and Dan Burton (R-Indiana). The lawmakers say that there are seeking a court declaration that the War Powers Act was violated and an injunction against: (1) the policy that a president may unilaterally go to war in Libya and other countries without a declaration of war from Congress, as required by Article I, Section 8, Clause 11 of the United States Constitution; (2) the policy that a president may commit the United States to a war under the authority of the North Atlantic Treaty Organization (NATO) in violation of the express conditions of the North Atlantic Treaty ratified by Congress; (3) the policy that a president may commit the United States to a war under the authority of the United Nations without authorization from Congress; (4) from the use of previously appropriated funds by Congress for an unconstitutional and unauthorized war in Libya or other countries; and (5) from the violation of the War Powers Resolution as a result of the Obama Administration’s established policy that the President does not require congressional authorization for the use of military force in wars like the one in Libya. It all sounds very important, and it is. There are few things more important than the Separation of Powers between the Executive and Legislative Branches and the question of the proper extension of the War Power. Unfortunately, this lawsuit is most likely destined to fail just as all previous attempts to resolve this issue in the Courts have failed. The most recent example of a case like this was Campbell v. Clinton, a case filed in Federal Court in 1999 seeking a declaration that President Clinton’s decision to commit U.S. military forces to the NATO miltiary action against Yugoslavia over the disputed territory in Kosovo. The District Court rejected the challenge on the grounds that the lawmakers in that case did not have standing to challenge a military action in Federal Court. The Court of Appeals affirmed the District Court’s decision, and pointed out quite forcefully to the lawmakers that they had other options available to them more appropriate than getting the Judicial Branch involved: In this case, Congress certainly could have passed a law forbidding the use of U.S. forces in the Yugoslav campaign; indeed, there was a measure—albeit only a concurrent resolution—introduced to require the President to withdraw U.S. troops. Unfortunately, however, for those congressmen who, like appellants, desired an end to U.S. involvement in Yugoslavia, this measure was defeated by a 139 to 290 vote. Of course, Congress always retains appropriations authority and could have cut off funds for the American role in the conflict. Again there was an effort to do so but it failed; appropriations were authorized. And there always remains the possibility of impeachment should a President act in disregard of Congress’ authority on these matters. The Court of Appeals also noted, however, that the lawmakers didn’t have much of a claim on the merits either: Appellants’ constitutional claim stands on no firmer footing. Appellants argue that the War Powers Clause of the Constitution proscribes a President from using military force except as is necessary to repel a sudden attack. But they also argue that the WPR “implements” or channels congressional authority under the Constitution. It may well be then that since we have determined that appellants lack standing to enforce the WPR there is nothing left of their constitutional claim. Assuming, however, that appellants’ constitutional claim should be considered separately, the same logic dictates they do not have standing to bring such a challenge. That is to say Congress has a broad range of legislative authority it can use to stop a President’s war making, see generally John C. Yoo, The Continuation of Politics by Other Means: The Original Understanding of War Powers, 84 CAL. L. REV. 167 (1996), and therefore under Raines congressmen may not challenge the President’s war-making powers in federal court. The Supreme Court declined to hear the appeal in this case. The powers of the purse that the Court of Appeals references in Campbell exist for Congress in the case of the action in Libya, of course. In a post at his blog, Turley makes clear that he’s aware of the standing issue: This is an action for injunctive and declaratory relief. In addition to challenging the circumvention of express constitutional language, it will also challenge arguments that no one (including members of Congress) has “standing” to submit this question to judicial review. These members will ask the federal district court for review of the constitutional question and for recognition that the Constitution must allow for judicial review of claims of undeclared wars under Article I. That’s all well and good, but given the Court’s reluctance to get involved in disputes between the Legislative and Executive Branch over war powers in the past, it seems highly unlikely to me that the standing issue will be any less of a problem now than they were in 1999. In some sense the court in Campbell is right, if Congress believes the President has acted unconstitutionally, they have the power to cut off funding for the Libyan action, or even to impeach the President, if they have sufficient votes to support that action. if they don’t, I’m not at all certain that getting judges involved in this particular policy area makes any sense at all.

#### Public pressure to fight terror means Obama will bypass congress

Dickinson 11—Professor of political science @ Middlebury College. [Dr. Matthew Dickinson (Expert on presidential powers with a PhD from Harvard), “Will You End Up in Guantanamo Bay Prison?,” Presidential Power, December 3, 2011 pg. http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/

Despite the overwhelming Senate support for passage (the bill passed 93-7 and will be reconciled with a House version. Senators voting nay included three Democrats, three Republicans and one independent), however, President Obama is still threatening to veto the bill in its current form. However, if administration spokespersons are to be believed, Obama’s objection is based not so much on concern for civil liberties as it is on preserving the president’s authority and flexibility in fighting the war on terror. According to White House press secretary Jay Carney, “Counterterrorism officials from the Republican and Democratic administrations have said that the language in this bill would jeopardize national security by restricting flexibility in our fight against Al Qaeda.” (The administration also objects to language in the bill that would restrict any transfer of detainees out of Guantanamo Bay prison for the next year.) For these reasons, the President is still threatening to veto the bill, which now goes to the Republican-controlled House where it is unlikely to be amended in a way that satisfies the President’s concerns. If not, this sets up an interesting scenario in which the President may have to decide whether to stick by his veto threat and hope that partisan loyalties kick in to prevent a rare veto override.¶ The debate over the authorization bill is another reminder of a point that you have heard me make before: that when it comes to national security issues and the War on Terror, President Obama’s views are much closer to his predecessor’s George W. Bush’s than they are to candidate Obama’s. The reason, of course, is that once in office, the president—as the elected official that comes closest to embodying national sovereignty—feels the pressure of protecting the nation from attack much more acutely than anyone else. That pressure drives them to seek maximum flexibility in their ability to respond to external threats, and to resist any provision that appears to constrain their authority. This is why Obama’s conduct of the War on Terror has followed so closely in Bush’s footsteps—both are motivated by the same institutional incentives and concerns.¶ The Senate debate, however, also illustrates a second point. We often array elected officials along a single ideological line, from most conservative to most liberal. Think Bernie Sanders at one end and Jim DeMint at the other. In so doing, we are suggesting that those individuals at the farthest ends of the spectrum have the greatest divergence in ideology. But on some issues, including this authorization bill, that ideological model is misleading. Instead, it is better to think of legislators arrayed in a circle, with libertarian Republicans and progressive Democrats sitting much closer together, say, at the top of the circle, joined together in their resistance to strong government and support for civil liberties. At the “bottom” of the circle are Republicans like Graham and Democrats like Levin who share an affinity for strengthening the government’s ability to protect the nation’s security.¶ For Obama, however, the central issue is not the clash of civil liberties and national security—it is the relative authority of the President versus Congress to conduct the War on Terror. That explains why he has stuck by his veto threat despite the legislative compromise. And it raises an interesting test of power. To date he has issued only two presidential vetoes, by far the lowest number of any President in the modern era. His predecessor George W. Bush issued 12, and saw Congress override four—a historically high percentage of overrides. On average, presidential vetoes are overridden about 7% of the time. These figures, however, underplay the use of veto threats as a bargaining tool. In the 110th (2007-08) Congress alone, Bush issued more than 100 veto threats. I’ve not calculated Obama’s veto threats, but it is easy enough to do by going to the White House’s website and looking under its Statements of Administrative Policy (SAP’s) listings. Those should include veto threats. Note that most veto threats are relatively less publicized and often are issued early in the legislative process. This latest veto threat, in contrast, seems to have attracted quite a bit of press attention. It will be interesting to see whether, if the current authorization language remains unchanged, Obama will stick to his guns.

### AT – Tyranny

#### Zero risk of executive dictatorship

Posner and Vermeule 9 (Eric A. Posner, University of Chicago - Law School, and Adrian Vermeule, Harvard Law School, “Tyrannophobia”, 9/15/9, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1473858>)

Tyranny looms large in the American political imagination. For the framers of the Constitution, Caesar, Cromwell, James II and George III were anti-models; for the current generation, Hitler takes pride of place, followed by Stalin, Mao and a horde of tyrants both historical and literary. Students read “1984” and “Animal Farm” and relax by watching Chancellor Palpatine seize imperial power. Unsurprisingly, comparisons between sitting presidents and the tyrants of history and fiction are a trope of political discourse. Liberals and libertarians routinely compared George W. Bush to Hitler, George III and Caesar. Today, Barack Obama receives the same treatment, albeit in less respectable media of opinion. All major presidents are called a “dictator” or said to have “dictatorial powers” from time to time.1 Yet the United States has never had a true dictator, or even come close to having one, and rational actors should update their risk estimates in the light of experience, reducing them if the risk repeatedly fails to materialize. By now, 233 years after independence, these risk estimates should be close to zero. Why then does the fear of dictatorship – tyrannophobia – persist so strongly in American political culture? Is the fear justified, or irrational? Does tyrannophobia itself affect the risk of dictatorship? If so, does it reduce the risk or increase it? The plan of the essay is as follows. Section I offers some definitions and conceptual distinctions, principally to identify the varieties of tyrannophobia that we will consider. Section II examines fears of dictatorship in American history. Section III examines comparative evidence on the causes of dictatorship, and introduces new evidence on the relationship across countries between dictatorship and tyrannophobia. We find that tyrannophobia does little or nothing to prevent dictatorship. Armed with this evidence, Section IV evaluates the relationship between tyrannophobia and dictatorship in American history. As to the original constitutional design, we suggest that the framers’ choice of an independently elected executive may have created a risk of dictatorship, but that demographic factors, notably the wealth of its population, now ensure that the United States is highly unlikely to lapse into dictatorship. The very economic and political conditions that have created powerful executive government, in the modern administrative state, have also strengthened informal political checks on presidential action. The result is a president who enjoys sweeping de jure authority, but who is constrained de facto by the reaction of a highly educated and politically involved elite, and by mass opinion. We are skeptical that tyrannophobia itself accounts for the absence of dictatorship in the United States, and suggest that it is a historical relic that interferes with beneficial institutional change. A brief conclusion follows.

#### Empirically no spillover from war powers to tyranny

Posner and Vermeule 9 (Eric A. Posner, University of Chicago - Law School, and Adrian Vermeule, Harvard Law School, “Tyrannophobia”, 9/15/9, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1473858>)

But if American presidents have gained more legal and political power over time, they remain vastly more constrained, at least politically, than the Caesars and the Cromwells that the founders feared. Indeed, the United States—unlike many other countries, including Germany, of course—has never had a dictator, nor has it come close. Every president has humbly submitted to an election after four years and stepped down (except for FDR) after eight. George Washington, in many respects a model of the constrained executive, devoted much of his Farewell Address to warning his fellow citizens about the risks and evils of tyranny.35 Lincoln violated the law at the start of the Civil War but felt that he needed to obtain congressional ratification of his actions after the fact, and stood for election at the end of his first term. Wilson and Roosevelt also had tremendous power to conduct war, but presidential power has always contracted with the return to peace—or, put differently, while presidents are understood to have broad warmaking powers, these powers have not resulted in peacetime dictatorships.

#### Prefer our evidence – Psychological bias towards overestimating the risks of a strong executive

Posner and Vermeule 9 (Eric A. Posner, University of Chicago - Law School, and Adrian Vermeule, Harvard Law School, “Tyrannophobia”, 9/15/9, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1473858>)

Psychologists have offered a number of hypotheses for why people have incorrect beliefs about the risk of an event. These hypotheses center around bounded rationality, particularly cognitive biases and reliance on mental shortcuts called heuristics.67 People exaggerate risks of events that inspire them with dread (cancer deaths rather than ordinary illnesses); over which they have no control (nuclear accidents rather than car accidents); and that have unusual salience. The first tendency is related to loss aversion, the attribution of greater weight to losses than to identical gains against an arbitrary reference point. People are also imperfect Bayesians: they update probability estimates in light of new information as they should, but they do not do this very well or very quickly. Instead they give too much weight to their initial estimates and discount new information that conflicts with it. Past probability estimates are stickier, over time, than would be the case with unbounded rationality. Let us compare a relatively unconstrained executive and an executive who takes orders from a legislature. There is a straightforward tradeoff: the first executive can adopt policies very easily; the second must obtain the consent of a majority of the legislature. Accordingly, the first executive can more easily act to advance and undermine the public good; the second executive will have to choose from a narrower range of policy outcomes, with a limited upside and downside for the public. We can immediately see that the executive’s ability to inflict worse as well as better outcomes will engage the public’s loss aversion. People will irrationally overweight the bad outcome, and hence they will exaggerate the downside of the strong executive relative to the upside. The limited executive, with its limited downside, will therefore be more appealing. More speculatively, it is possible that people feel that they have less control over the executive—a remote figure with a national constituency—than over the legislature, by virtue of their representation by an individual with whom they are more likely to have contact (or to know someone who knows him or her, etc.). Further, the president is a salient figure, the personification of government and the focus of the national media. It follows that the risks and consequences of executive power are also more salient than the risks of legislative and judicial power. Finally, and even more speculatively, imperfect Bayesian updating implies that possibly justified fears of executive overreaching that existed in earlier periods, including the founding, could outlast changes in circumstances.68 Bayesian updating is an attribute of individual decisionmaking of course, but perhaps such a phenomenon could take place at a collective level. Successive generations inherit attitudes toward the executive held by previous generations; attitudes that might be justified at an earlier time are not adjusted by later generations in light of changed circumstances, such as the improved education of the citizenry. One might even suggest that in a country such as the United States with strong traditions of equality and individualism, the president will frequently be the target of strong feelings of resentment and envy. The pomp of the office sits uneasily with republican sensibilities. The suspicion that any president will secretly attempt to obtain dictatorial powers might help resolve cognitive dissonance between these feelings and the evident inability of presidents to do much more than respond to crises and implement a tiny portion of their political agenda.69 Tyrannophobia is an element of the broader paranoid style in American politics, which attributes vast, wrenching social changes to the machinations of individuals or small groups thought to have extraordinary power.70 Overall, then, the suggestion is that ongoing tyrannophobia in the United States can be explained by cognitive biases and other psychological phenomena. Just as a single nuclear accident can cause people to overestimate the risks of nuclear energy and hence demand that government shut down that industry, with the result that no further accident can ever occur, the pre-founding brush with executive tyranny—followed by the dictatorships of such figures as Mussolini, Hitler, Stalin, and Mao—has caused Americans to overestimate the risk of executive power and hence recoil against even reasonable moves toward greater executive authority. Even though dictatorship has never existed in the United States, Americans fear dictators and refuse to support anyone who seems to have dictatorial ambitions, and are reluctant to support legislative and constitutional changes that could increase executive power; this reluctance persists even though circumstances have changed, and the actual risks of dictatorship are far lower than in the past.

#### Checks on executive power increase the risk of tyranny

Posner and Vermeule 9 (Eric A. Posner, University of Chicago - Law School, and Adrian Vermeule, Harvard Law School, “Tyrannophobia”, 9/15/9, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1473858>)

In the worst possible case, tyrannophobia might actually increase the risk of dictatorship and thus prove self-defeating. Two mechanisms might bring this about. In the first, tyrannophobic constitutional designers set up elaborate vetogates, legislative and judicial oversight, and other checks and balances, all with an eye to minimizing the risks of executive dictatorship. However, these checks and balances create gridlock and make it difficult to pass necessary reforms. Where the status quo becomes increasingly unacceptable to many, as in times of economic or political crisis, the public demands or at least accepts a dictator who can sweep away the institutional obstacles to reform.73 Here the very elaborateness of the designers’ precautions against dictatorship creates pent-up public demand that itself leads to dictatorship. Comparative politics provides (contested) evidence for this story,74 and if Lincoln or Roosevelt had become a genuine dictator, a similar account would be natural. On this view, the United States was lucky not to have experienced dictatorship during earlier periods of its history; we return to this point shortly In another mechanism, tyrannophobic constitutional designers create oversight bodies to check the executive, yet these oversight bodies themselves become tyrannical. In this way, tyranny sneaks up behind the back of the tyrannophobe, who is gazing vigilantly in the wrong direction. In Honduras in 2009, a democratically elected president proposed a constitutional amendment to abolish presidential term limits. Citing the risk of executive dictatorship, legislators and soldiers dragged him from his bed and hustled him into exile – a classically dictatorial move. There are no such lurid cases in the United States, but mechanisms of legislative oversight have sometimes produced a kind of legislative tyranny writ small, as in the case of Joe McCarthy, many of whose abuses were effected through committee oversight of executive branch personnel and decisionmaking. The fear of “Government by Judiciary”75 is best understood as a fear that judicial checks, intended to prevent legislative or executive tyranny, will themselves produce either judicial tyranny or, more plausibly, judicial gerontocracy. Both these mechanisms suggest that precautions against tyranny can create the risks they aim to avert. Institutional design must then trade off two competing risks of tyranny, which can arise either because there are no institutional checks in place, or because of and through the very institutions set up to guard against it. Checks against tyranny embody a kind of precautionary principle. Here as elsewhere, however, precautionary principles can be self-defeating if precautions exacerbate the risk itself, so precautions must be entered on both sides of the cost-benefit ledger.76

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#### Immigration reform is key to food security

**ACIR ‘7** (December 4, 2007 THE AGRICULTURE COALITION FOR IMMIGRATION REFORM

Dear Member of Congress: The Agriculture Coalition for Immigration Reform (ACIR) is deeply concerned with pending immigration enforcement legislation known as the ‘Secure America Through Verification and Enforcement Act of 2007' or ‘SAVE Act’ (H.R.4088 and S.2368). While these bills seek to address the worthy goal of stricter immigration law enforcement, they fail to take a comprehensive approach to solving the immigration problem. History shows that a one dimensional approach to the nation’s immigration problem is doomed to fail. Enforcement alone, without providing a viable means to obtain a legal workforce to sustain economic growth is a formula for disaster. Agriculture best illustrates this point. Agricultural industries that need considerable labor in order to function include the fruit and vegetable, dairy and livestock, nursery, greenhouse, and Christmas tree sectors. Localized labor shortages have resulted in actual crop loss in various parts of the country. More broadly, producers are making decisions to scale back production, limit expansion, and leave many critical tasks unfulfilled. Continued labor shortages could force more producers to shift production out of the U.S., thus stressing already taxed food and import safety systems. Farm lenders are becoming increasingly concerned about the stability of affected industries. This problem is aggravated by the nearly universal acknowledgement that the current H-2A agricultural guest worker program does not work. Based on government statistics and other evidence, roughly 80 percent of the farm labor force in the United States is foreign born, and a significant majority of that labor force is believed to be improperly authorized. The bills’ imposition of mandatory electronic employment eligibility verification will screen out the farm labor force without providing access to legal workers. Careful study of farm labor force demographics and trends indicates that there is not a replacement domestic workforce available to fill these jobs. This feature alone will result in chaos unless combined with labor-stabilizing reforms. Continued failure by Congress to act to address this situation in a comprehensive fashion is placing in jeopardy U.S. food security and global competitiveness. Furthermore, congressional inaction threatens the livelihoods of millions of Americans whose jobs exist because laborintensive agricultural production is occurring in America. If production is forced to move, most of the upstream and downstream jobs will disappear as well. The Coalition cannot defend of the broken status quo. We support well-managed borders and a rational legal system. We have worked for years to develop popular bipartisan legislation that would stabilize the existing experienced farm workforce and provide an orderly transition to wider reliance on a legal agricultural worker program that provides a fair balance of employer and employee rights and protections. We respectfully urge you to oppose S.2368, H.R.4088, or any other bills that would impose employment-based immigration enforcement in isolation from equally important reforms that would provide for a stable and legal farm labor force.

#### Food insecurity sparks World War 3

**Calvin ’98** (William, Theoretical Neurophysiologist – U Washington, Atlantic Monthly, January, Vol 281, No. 1, p. 47-64)

The population-crash scenario is surely the most appalling. Plummeting crop yields would cause some powerful countries to try to take over their neighbors or distant lands -- if only because their armies, unpaid and lacking food, would go marauding, both at home and across the borders. The better-organized countries would attempt to use their armies, before they fell apart entirely, to take over countries with significant remaining resources, driving out or starving their inhabitants if not using modern weapons to accomplish the same end: eliminating competitors for the remaining food. This would be a worldwide problem -- and could lead to a Third World War -- but Europe's vulnerability is particularly easy to analyze. The last abrupt cooling, the Younger Dryas, drastically altered Europe's climate as far east as Ukraine. Present-day Europe has more than 650 million people. It has excellent soils, and largely grows its own food. It could no longer do so if it lost the extra warming from the North Atlantic.

### 2nc Link

#### Defending presidential war powers wastes political capital and spills over to the domestic agenda – Bush proves

Kriner ‘10

Douglas L., assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, pages 282-283

The Costs of Congressional Wartime Opposition to the Bush Agenda¶ There is also considerable circumstantial evidence suggesting that the intense congressional opposition to Bush's Iraq War policies imposed an additional, significant political cost on the president: it brought action on virtually every other issue on his domestic and international agendas to a grinding halt. With an approval rating mired in the low thirties throughout his final year in office and with more than twice that figure disapproving of his job performance. Bush devoted every bit of his politcal capital to insuring continued funding for the war in Iraq.¶ Measuring the costs that congressional wartime opposition exacts on other presidential agenda items is perhaps even more difficult than conclusively showing its influence on public opinion. However, on several metrics the data strongly suggests that Bush failed to achieve almost all of his non-Iraq legislative priorities in his final two years in office. One commonly used measure of legislative productivity is Mayhew’s class of “sweep one" significant enactments. In raw numerical terms, the emergence of sustained, significant congressional challenges to the war in Iraq did not dampen legislative productivity. The 110th Congress enacted thirteen pieces of landmark legislation, versus fourteen in the 109th Congress, although this total was boosted significantly by three bills responding to the financial crisis. However, a simple comparison of numbers obscures precisely whose agenda items comprised these lists of significant enactments. Landmark initiatives passed in the 109th Congress included a major reform of bankruptcy laws that favored lenders over consumers; the Class Action Fairness Act. which made it more difficult for individuals to bring such suits against businesses: billions of dollars of tax breaks to increase energy production: the Central American Free Trade Agreement: and the opening of more than eight million acres of the Gulf of Mexico to offshore drilling. These and most other items on the list clearly reflected Bush's legislative priorities. By contrast, many of the landmark initiatives enacted by the 110th Congress clearly reflected the priorities of the Democratic majority: an increase in the minimum wage: ethics and lobbying reform: an overhaul of the student loan program that cut subsidies to private lenders and increased federal aid to low-income families: an energy bill raising automobile gas mileage standards and encouraging conservation: and a bill requiring insurance companies to provide equal coverage for mental and physical illnesses.19¶ All second-term presidents at some point grapple with the reality of becoming a lame duck, and all presidents in periods of divided government must grapple with legislatures possessing their own programmatic agendas. By almost any standard, however. Bush succeeded in achieving even fewer of his legislative priorities in the final two years of his presidency than his immediate predecessors. The reasons for this are undoubtedly multifaceted. However, an important piece of the puzzle may well be that Bush, who in 2001 had been the most popular president in the history of the Gallup poll, was forced to expend every remaining bit of political energy in waging a rearguard action against Congress to preserve his policies in Iraq. The animus that his intransigence in Iraq had generated among the American people and many in Congress, even among some in his own party, left him stripped of the political capital needed to advance the remainder of his policy agenda.

### 2nc Impact

#### Growth prevents conflict escalation – solves the case impacts

Griswold 7

Daniel, Trade Policy Studies @ Cato, 4/20/’7, Trade, Democracy and Peace, http://www.freetrade.org/node/681

A second and even more potent way that trade has promoted peace is by promoting more economic integration. As national economies become more intertwined with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war.

#### Decline causes nuclear war – increased nationalism and loss of multilateralism

Merlini 11

Cesare Merlini, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

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

#### Collapses power projection – leads to nuclear war

Harris and Burrows 9

Mathew, PhD European History @ Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer is a member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>

Increased Potential for Global Conflict

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises.

#### Statistical studies go neg

Royal 10

Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-214

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin. 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Feaver, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner. 1999). Separately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland's (1996, 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4 Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write: The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002. p. 89) Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. "Diversionary theory" suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1996), DeRouen (1995). and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force. In summary, recent economic scholarship positively correlates economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels.5 This implied connection between integration, crises and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

#### Diversionary theory and history proves

Yulu 3

Zhang, Viewpoint: Economic Recession-Blasting Fuse of Modern War, People’s Daily Online

The Iraq war has caused world people to think of many questions, one of which being the cause of war. Based on their analyses, many scholars and experts hold that the world political and economic unbalance is the factor that leads to war, but in the opinion of this author, Zhang Yulu, economic recession is the real fuse of modern war. If one examines the wars broken out ever since more than a century ago, one will discover an interesting phenomenon, that is, each fairly big economic recession (or economic crisis) was inevitably followed by the eruption of a war. This is true with World I, World War II, the Gulf War, as well as the Iraq war. It can be said that economic downturn is the blasting fuse of modern war. After the establishment of the capitalist system in Western countries, the market economy gradually replaced the natural economy to hold a dominant position. The market economy, more often than not, presented itself as a "surplus economy". The economic crisis is the result of this kind of relative excess and a passive method for eliminating the excess. During the period of recession, there are sharp social contradictions, stockpiling commodities and declining production, under this circumstance, the State must bear the responsibility to eliminate excess and stimulate production. The most effective method. The interactions of the two major forces--the sharp domestic contradictions and the expansion of military strengths-are bound to cause certain big powers to cherish the motive to lift themselves out of the "quagmire" of recession by relying on war. No wonder before the Iraq war completely came to an end, certain American "experts" began to calculate how large a role the Iraq war could play for US economic recovery. As a matter of fact, the United States is quite experienced in making a big fortune out of war and making use of war to remedy recession. World War I helped the United States to secure its throne as the world's number one power, World War II helped it to attain the position as a superpower. Victory in the Gulf War, to a certain extent, helped bring about a "new economy" and a period of 10-year-long economic prosperity for the United States. Owing to US military might, many countries have attached themselves to or are dependent on America politically and militarily, as a result, US hegemony pushes its way through, thus objectively making the United States become the country enjoying the most "stability" in the world. US present economic difficulty is associated with the declining investment rates resulted from enterprises' overproduction capacity and companies' accounting scandals, thus laying bare the aspect of false prosperity of its "new economy", but the most direct fuse of US economic recession is the "9.11" incident, it exposes the weakness of the US "security system", predicting that the "investment paradise" is facing challenges. So, in a certain sense, American economic recession is caused by the threat to its hegemony, not purely due to economic factors. The US government is well aware of the relations among US economic prosperity, its security and world security, the United States holds that to maintain US economic prosperity, it is essential to ensure national security, restore the "investment paradise" position and create neither too big nor too small troubles to the world, leaving other parts of the world in a state of "controlled" insecurity. Only by doing so, can the United States "gain benefits as can a fisherman". That's why the United States is going all out to attack "terrorism" at all costs, which presently poses the greatest threat to the country; blockade so-called disobedient "axis of evil countries", guard against potential competitors such as China, Russia and Europe, and reestablish a "secured islet". The Afghanistan war produced the effect of "killing three birds with one stone", dealt a heavy blow to terrorism and at the same time helped US influence to penetrate into regions close to China and Russia. Guided by this policy and inspired by victory gained in the anti-terrorism war, the United States started attacks on Iraq in defiance of world people's strong anti-war cries. This action was neither taken out of the emotional impulse of President George W. Bush, nor was it taken purely for oil interests. The disintegration of the Soviet Union once greatly excited some people who thought that war danger had decreased with the conclusion of the Cold War. Now it turns out that the world dominated by one superpower is more disquiet than it is faced with the contest between two powers for hegemony. The world is analogous to a scale that can be balanced only when things on both ends are of equal weights, change in the weight on one end means the loss of balance. After the break-up of the Soviet Union, the strength restraining the United States has been weakened, multi-polarization is in the process of development, the United States, being the sole superpower, increasingly likes to speak in a "Tomahawk" way. Especially when the tranquillity of various countries has begun to be linked up with the performance of the US economy, as a "folk prescription" for remedying US economic recession, war has become a "good recipe". The United States has repeatedly drawn benefits from its military might, so it has made up its mind to maintain its military leading position. As soon as he took office, President Bush declared his intention to build an "unmatchable" military force, and approved the defense budget totaling US$310 billion for 2001 and the country's budgeted military spending reached as high as US$392 billion for 2003, even higher than the combined total of other 20 military powers. An additional war fund worth nearly US$80 billion was put in during the Iraq war. It seems that the dose of fitness "desperate cures" of the United States will continuously be put into use.

### 2nc AT Brandt and Ulfelder

#### The Brandt and Ulfelder analysis doesn’t assume a large economic collapse

Brandt and Ulfelder 11

\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network

The research described here was motivated, in part, by a desire to help anticipate political fallout from the global economic recession triggered by the financial crisis of 2008. Any attempt to do that should be tempered by recognition that, if the latest IMF forecasts are correct, the data from which these models were estimated do not include a global recession as broad and severe as the one occurring in 2008-10. While most countries’ growth rates remain within the normal range of the historical sample used here, the breadth and depth of the slowdown—as measured by the growth rate of the global economy—makes it the worst since World War II, according to the IMF. If the current crisis differs in kind from the ones that occurred in the 1970s, the 1980s, and the early 2000s, then the models may not accurately capture the effects this crisis will have on political stability.

#### Data set doesn’t cover 2008

Brandt and Ulfelder 11

\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network

This section of the paper details the measures and data we used in our analyses. The results are discussed in the sections that follow. The dataset we describe below covers the defined measures of political instability, annually from 1972-2007.

#### Ignores inter-state conflict

Brandt and Ulfelder 11

\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network

To investigate the effects of economic growth on political instability, we used several different dependent variables representing two general types of political instability: low- level instability in the form of contentious politics, and high-level instability in the form of coups d’etat and regime transitions.

### 2nc AT Drezner

#### Drezner’s conclusion doesn’t exclude the argument that decline leads to war – his article is only about the 2008 decline – resiliency declines if growth remains low

Drezner 12

Daniel W. Drezner, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” http://www.globaleconomicgovernance.org/wp-content/uploads/IR-

Colloquium-MT12-Week-5\_The-Irony-of-Global-Economic-Governance.pdf

Conclusion¶ Five years ago, there were rampant fears that waning American power would paralyze global eco- nomic regimes. The crisis of the Great Recession exacerbated those fears even further. A review of policy outcomes, policy outputs, and institutional resilience shows a different picture. Global trade and investment levels have recovered from the plunge that occurred in late 2008. A mélange of inter- national coordination mechanisms facilitated the provision of policy outputs from 2008 onward. Existing global governance structures, particularly in finance, have revamped themselves to accom- modate shifts in the distribution of power. The World Economic Forum’s survey of global experts shows rising confidence in global governance and global cooperation.73 The evidence suggests that global governance structures adapted and responded to the 2008 financial crisis in a robust fashion. They passed the stress test. The picture presented here is at odds with prevailing conventional wis- dom on this subject.¶ This does not mean that global economic governance will continue to function effectively going forward. It is worth remembering that there were genuine efforts to provide global public goods in 1929 as well, but they eventually fizzled out. The failure of the major economies to assist Austria af- ter the Credit Anstalt bank crashed in 1931 led to a cascade of bank failures across Europe and the United States. The collapse of the 1933 London conference guaranteed an ongoing absence of policy coordination for the next several years.¶ The start of the Great Depression was bad. International policy coordination failures made it worse. Such a scenario could play out again. There is no shortage of latent or ongoing crises that could lead to a serious breakdown in global economic governance. The IMF’s reluctance to take more critical actions to address the eurozone crisis have already prompted one angry resignation letter from an IMF staffer. The summer 2012 drought in the midwestern United States could trigger an- other spike in food prices. The heated protectionist rhetoric of the 2012 presidential campaign in the United States, or the nationalist rhetoric accompanying China’s 2012 leadership transition, could spark a Sino-American trade war. If global economic growth continues to be mediocre, the surprising effectiveness of global economic governance could peter out. Incipient signs of backsliding in the WTO and G20 might mushroom into a true “G-Zero” world.74