# \*\*2AC\*\*

### Standing CP: 2AC

**“Resolved” doesn’t lock the aff into “certainty”:**

**Merriam Webster ‘9** (http://www.merriam-webster.com/dictionary/resolved)

# Main Entry: 1re·solve # Pronunciation: \ri-ˈzälv, -ˈzȯlv also -ˈzäv or -ˈzȯv\ # Function: verb # Inflected Form(s): **resolved**; re·solv·ing 1 : to become separated into component parts; also : to become reduced by dissolving or analysis 2 : **to** form a resolution : determine 3 : **consult, deliberate**

**Neither does “should”**

**Encarta** World English Dictionary 200**5** (http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861735294)

expressing conditions or consequences: **used to express the conditionality of an occurrence and suggest it is not a given, or to indicate the consequence of something that might happen** ( used in conditional clauses )

**And resolved doesn’t mean immediate**

Online Plain Text English **Dictionary ‘9** (http://www.onelook.com/?other=web1913&w=Resolve)

**Resolve**: “To form a purpose; **to make a decision**; especially, to determine **after reflection**; as, to resolve on a better course of life.”

#### Congress already has standing in necessary circumstances—current doctrine is key to prevent political challenges which turn the net benefit

Rivkin and Folwy 14 (David and Elizabeth, David Rivkin served in the Justice Department and the White House Counsel’s Office in the Reagan and George H.W. Bush administrations. He practices appellate litigation with particular focus on constitutional law at Baker Hostetler LLP and represented the 26 states that challenged the constitutionality of Obamacare. Elizabeth Price Foley is professor of constitutional law at Florida International University College of Law. She is the author, most recently, of The Tea Party: Three Principles.1-15-14, "Can Obama’s Legal End-Run Around Congress Be Stopped?" [www.politico.com/magazine/story/2014/01/barack-obama-constitution-legal-end-run-around-congress-102231.html#.UyORYvldXUU](http://www.politico.com/magazine/story/2014/01/barack-obama-constitution-legal-end-run-around-congress-102231.html#.UyORYvldXUU)

The post-Raines presumption against congressional standing is appropriate as a general matter. It is not desirable to allow a single member of Congress, or an ad hoc group of members, to challenge any presidential action with which they politically disagree. Such lawsuits would be abstract, inefficient and potentially destructive to the president’s legitimate authority. But Raines is best understood as establishing only a presumption against congressional standing that can be rebutted in the right circumstances. Indeed, there are powerful reasons why members of Congress should be permitted to sue the president when the situation warrants.

**CP hurts the Court—kills legitimacy by allowing Congress to intrude on executive authority**

**Weiner 97** The New Law of Legislative Standing¶ David J. Weiner¶ Page 205 of 205-234 <http://www.jstor.org/stable/1229427>

Why did the Court adopt a rule that holds congressional plaintiffs to a ¶ higher standard than their non-legislative counterparts? Further, why did it ¶ establish the threshold at the high level of the common law legal-interest test? ¶ The most compelling explanation for these questions is that **the decision meant ¶ to advance a particular understanding of the separation of powers.15 Standing ¶ and the separation of powers doctrine have long been wedded together; a robust ¶ standing doctrine makes it more difficult for litigants to use the federal courts ¶ and therefore precludes their seizure of political power**. Yet the complete ¶ nullification standard adopted in Raines goes a step further. Specifically, the ¶ Supreme Court viewed complete nullification as a shield to protect courts from ¶ deciding the types of cases most likely to threaten their legitimacy. Moreover, ¶ **concern about judicial legitimacy and the separation of powers explains the ¶ return of the legal-interest test, since this test limits courts to resolving private ¶ disputes involving discrete wrongs and discrete persons**,16 rather than the more ¶ controversial public suits that seek to define the constitutional duties of ¶ government. 17¶ A separation of powers explanation of Raines raises several problems, ¶ however. There are several circumstances in which **the recognition** or denial **of ¶ congressional standing** under Raines **will** actually **undermine the separation of ¶ powers.** First, because the complete-nullificationest permits courts to hear ¶ cases that involve the greatest inter-branch conflict, it fails to screen issues ¶ most likely to threaten the judiciary's legitimacy. Second, Raines limits ¶ congressional standing to such an extreme that it prevents the adjudication of a ¶ category of cases that-for purposes of preserving the separation of powers ¶ doctrine-ought to be heard. Finally, because a private plaintiff can generally ¶ establish standing when a congressional plaintiff cannot, Raines is difficult to ¶ defend unless there is unique value to delay or unless members of Congress ¶ present special harms as plaintiff

**Multilat fails**

**Holmes 10**-VP, foreign policy and defense studies, Heritage. Frmr Assistant Secretary of State for International Organization Affairs. While at the State Department, Holmes was responsible for developing policy and coordinating U.S. engagement at the United Nations and 46 other international organizations. Member of the CFR. Frmr adjunct prof of history, Georgetown. PhD in history, Georgetown (Kim, Smart Multilateralism and the United Nations, 21 Sept. 2010, <http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations>)

The need for multilateralism is obvious. Nations share concerns about many problems and issues for which coordinated efforts could be mutually beneficial. Yet only rarely do all governments agree on the nature of a problem and the means to address it. At times, negotiations result in a less-than-perfect, but still acceptable, course of action. Disagreements can also lead to no action or the use of force or other confrontational measures. One of the purposes of multilateralism is to minimize the number and intensity of such confrontations. The process itself, however, is fraught with political challenges that can undermine potential solutions and even lead to other problems. For the United States, multilateralism faces its greatest challenge at the United Nations, where U.S. diplomats seek cooperative action among member nations on serious international problems. Therein lies the tension. The United Nations is first and foremost a political body made up of 192 states that rarely agree on any one issue. Even fundamental issues, such as protecting and observing human rights, a key purpose of the U.N. that all member states pledge to uphold when they join it, have become matters of intense debate. A key reason for this difficulty is the fact that the voices and votes of totalitarian and authoritarian regimes have equal weight to those of free nations at the U.N. The all-too-frequent clash of worldviews between liberty and authoritarian socialism has stymied multilateralism more than facilitated it, frequently leading to institutional paralysis when a unified response to grave threats to peace and security or human rights and fundamental freedoms was needed. U.S. secretary of state John Foster Dulles, who attended the San Francisco meetings that established the U.N., acknowledged this Achilles’ heel in 1954, when he told reporters: “The United Nations was not set up to be a reformatory. It was assumed that you would be good before you got in and not that being in would make you good.”[[1]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn1" \t "_blank) Fifty-five years later, the ideological fray at the U.N. has turned the terms “democracy” and “freedom” on their heads.Autocracies that deny democratic liberties at home are all too keen to call the Security Council “undemocratic” because in their view not every region, country, or bloc is sufficiently represented. During my time at the State Department, I was told repeatedly by other diplomats at the U.N. that the very concept of “freedom” is taboo because the term is “too ideologically charged.” In this environment, how can the United States or any freedom-loving country advance the purposes set forth in the U.N. Charter, including “encouraging respect for human rights and for fundamental freedoms for all,”[[2]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn2" \t "_blank) when the word “freedom” itself is considered too controversial? More money will not do it. No other nation contributes more to the U.N.’s regular budget, its peacekeeping budget, or the budgets of its myriad affiliated organizations and activities than the United States. America has continued its generous support even though Americans increasingly view the U.N. as inefficient and ineffective at best and fraudulent, wasteful, anti-American, and beyond reform at worst.[[3]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn3" \t "_blank) If the United States is to advance its many interests in the world, it needs to pursue multilateral diplomacy in a smarter, more pragmatic manner. This is especially true when Washington is considering actions taken through the United Nations. A decision to engage multilaterally should meet two criteria: First, it should be in America’s interests, and second, it will serve to advance liberty. Unless the United States can achieve both these ends acting within the U.N. system, it should find ways to work around it. Such “smart multilateralism” is not easy, particularly in multilateral settings. It requires politically savvy leaders who can overcome decades-old bureaucratic inertia at the State Department and in international organizations. It requires the political will and diplomatic skill of people who are dedicated to advancing U.S. interests in difficult environments, especially where progress will likely be slow and incremental. It requires a belief in the cause of liberty, gleaned from a thorough study of our nation’s history and the U.S. Constitution, and a deep appreciation for the values and principles that have made America great. Smart multilateralism requires a fundamental awareness of the strengths and weaknesses, capabilities and failings, of the U.N. and other multilateral negotiating forums, so that the United States does not overreach. Perhaps the most critical decision is whether or not to take a matter to the U.N. in the first place. It would be better to restrict U.S. engagement at the U.N. to situations in which success is possible or engagement will strengthen America’s influence and reputation. Selective engagement increases the potential for success, and success breeds success. When America is perceived to be a skillful and judicious multilateral player, it finds it easier to press its case. Smart multilateralism thus requires well-formulated and clear policy positions and a willingness to hold countries accountable when their votes do not align with our interests. Finally, smart multilateralism is not the same thing as “smart power,” a term that Secretary of State Hillary Clinton has used. Suzanne Nossell, a former diplomat at the U.S. Mission to the U.N. in New York, coined that term in 2004 and described it in an article in *Foreign Affairs*.[[4]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn4" \t "_blank) Smart power is seen as a takeoff of “soft power,” which suggests that America’s leaders downplay the nation’s military might as well as its historic role in establishing an international system based on the values of liberty and democracy, and de-emphasize its immense economic and military (“hard”) power. Smart power seeks to persuade other countries from a position of assumed equality among nations. This assumption has become the Achilles’ heel of the U.N. system and other Cold War–era organizations. Smart multilateralism does not make that same mistake. Challenges to Effective U.S. Multilateralism The United States belongs to dozens of multilateral organizations, from large and well-known organizations such as NATO, the World Trade Organization (WTO), and the International Monetary Fund to relatively small niche organizations such as the Universal Postal Union and the International Bureau of Weights and Measures. The 2009 congressional budget justification[[5]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn5" \t "_blank) for the U.S. Department of State included line items for U.S. contributions to some fifty distinct international organizations and budgets.[[6]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn6" \t "_blank)The United Nations and its affiliated bodies receive the lion’s share of these contributions. While the World Bank and International Monetary Fund weight voting based on contributions, most of these organizations subscribe to the notion of the equality of nations’ votes. With a few exceptions such as Taiwan,[[7]](http://www.heritage.org/research/reports/2010/09/smart-multilateralism-when-and-when-not-to-rely-on-the-united-nations" \l "_ftn7" \t "_blank) all nations—no matter how small or large, free or repressed, rich or poor—have a seat at the U.N. table. Every nation’s vote is equal, despite great differences in geographic size, population, military or economic power, and financial contributions.

### Defer Add-On: Chemical Soldiers 2AC

#### Military is developing chemical soldiers

Parasidis 12 (Efthimios, Assistant Professor of Law, Center for Health Law Studies, Saint Louis University School of Law, 2012, "Justice and Beneficence in Military Medicine and Research" Ohio State Law School, Lexis)

The United States military has a long and checkered history of experimental research involving human subjects. It has sponsored clandestine projects that examined if race influences one's susceptibility to mustard gas, n1 the extent to which radiation affects combat effectiveness, n2 and whether psychotropic drugs could be used to facilitate interrogations or develop chemical weapons. n3 In each of these experiments, the government deliberately violated legal requirements and ethical norms that govern human-subjects research and failed to provide adequate follow-up medical care or compensation for those who suffered adverse health effects. In defending its decisions, the government argued that the studies and research methods were necessary to further the strategic advantage of the United States. n4 The military's contemporary research program is motivated by the same rationale. As the U.S. Defense Advanced Research Projects Agency (DARPA) explains, its goal is to "create strategic surprise for U.S. adversaries by maintaining the technological superiority of the U.S. military." n5 Current research sponsored by DARPA and the U.S. Department of Defense (DoD) [\*725] aims to ensure that soldiers have "no physical, physiological, or cognitive limitations." n6 The research includes drugs that keep soldiers awake for seventy-two hours or more, a nutraceutical that fulfills a soldier's dietary needs for up to five days, a vaccine that eliminates intense pain within seconds, and sophisticated brain-to-computer interfaces. n7 The military's emphasis on neuroscience is particularly noteworthy, with recent annual appropriations of over $ 350 million for cognitive science research. n8 Projects include novel methods of scanning a soldier's brain to ascertain physical, intellectual, and emotional states, as well as the creation of electrodes that can be implanted into a soldier's brain for purposes of neuroanalysis and neurostimulation. n9 One of the goals of the research is to create a means by which a soldier's subjective experience can be relayed to a central command center, and, in turn, the command center can respond to the soldier's experience by stimulating brain function for both therapeutic and enhancement purposes. n10 For example, the electrodes can be used to activate brain function that can help heal an injury or keep a soldier alert during difficult moments. n11 Another goal is to create a "connected consciousness" whereby a soldier can interact with machines, access information from the Internet, or communicate with other humans via thought alone. n12

#### Chemical soldiers cause extinction and destroy value to life

Deubel 13 (Paula, Professor Gabriel has held positions at the Brookings Institution, the Army Intelligence School, the Center for the Study of Intelligence at the CIA, and at the Walter Reed Army Institute of Research, Department of Combat Psychiatry, in Washington. 3-25-13, "The Psychopath Wars: Soldiers of the Future?" Suite 101) suite101.com/article/the-psychopath-wars-soldiers-of-the-future-a366977 \*\*evidence is gender modified\*\*

According to Dr. Richard A. Gabriel in his fascinating book, No More Heroes, the sociopathic personality can keep his or her psyche intact even under extremely pathological conditions, while the sane will eventually break down under guilt, fear, or normal human repulsion. Chemical Soldiers Richard A. Gabriel (military historian, retired U.S. army officer and former professor at the U.S. Army War College) describes socio/psychopaths as people without conscience, intellectually aware of what harm they might do to another living being, but unable to experience corresponding emotions. This realization, Gabriel claims, has led the military establishments of the world to discover a drug banishing fear and emotion in the soldier by controlling ~~his~~ [their] brain chemistry. In order for soldiers to ideally function in modern war ~~he~~ [they] should first be reconstructed to become what could be defined as mentally ill. “We may be rushing headlong into a long, dark chemical night from which there will be no return,” warns Gabriel. If these efforts succeed (as it appears they can) a chemically induced zombie would be born, a psychopathic-type being who would function (at least temporarily) without any human compassion and whose moral conscience would not exist to take responsibility for his actions. “Man’s [Humankind’s] nature would be altered forever,” he adds, “and it would cost him his [us our] soul.” As incredible and futuristic as that sounds, the creation of such a drug is apparently already well underway in the world’s military research labs; Gabriel reports such research centers already exist in the United States, Russia, and Israel. Since all emotions are based in anxiety, it appears the eradication of it (perhaps through a variant of the anti-anxiety medication Busbirone) may create soldiers who become more efficient killing machines. Futuristic Warfare Gabriel writes further about the possible nightmarish future of modern warfare: “The standards of normal sane men will be eroded, and soldiers will no longer die for anything understandable or meaningful in human terms. They will simply die, and even their own comrades will be incapable of mourning their deaths […] The battlefields of the future will witness a clash of truly ignorant armies, armies ignorant of their own emotions and even of the reasons for which they fight.” (Operation Enduring Valor, Richard A. Gabriel) This would strip a person of his core identity and all of his humanity. Whether or not the soldier would knowingly take part in this experience is unknown, but during the 1991 Persian Gulf War, one could almost easily imagine that this conscience-killing pill had already been swallowed. Psychopathic Behavior During War During the 1991 Iraq war a pilot interviewed on European television callously remarked ambushing Iraqis was “like waiting for the cockroaches to come out so we could kill them." Other U.S. pilots compared killing human beings to “shooting turkey” or like “attacking a farm after someone had opened a sheep stall.” This same lack of empathy can be seen in Iraq’s Abu Graib prison scandal (2004) where U.S. soldiers were shown seemingly to enjoy torture, as well as more recent photos of military men posing with dead Afghans (first published in Germany's Der Spiegel magazine); more gruesome photos were later published in Rolling Stone before the U.S. Army censored all the remaining damning material from public view. No More Heroes warns that modern warfare will become increasingly difficult for sane men to endure. The combat punch of man’s weapons has increased over 600% since World War II. These weapons are highly technical. High Explosive Plastic Tracers (HEP-T) send fragments of metal through enemy tanks and into humans at speeds faster than the speed of sound. The Starlight Scope is able to differentiate between males and females by computing differences in body heat given off by pelvic areas. The Beehive artillery ammunition (filled with three-inch long nail-like steel needles) is capable of pinning victims to trees. The world has a nightmare arsenal of terrible weapons advanced beyond the evolution of our morality.

### Lower Courts CP: 2AC

**Supreme Court will overrule lower court decisions—specific to deference**

**McCarty 10** (Richard, associate at Winston & Strawn LLP, Spring 2010, “Winter V. NRDC: The Navy, Submarines, Active Sonar, And Whales - An Analysis Of The Ninth Circuit Review And The Roberts Court Extension Of The Military Deference Doctrine” Houston Law Review, Lexis)

**The Ninth Circuit refused to apply the Supreme Court's well-established policy of deference** to uniquely military judgments, as well as to congressional and executive judgments pertaining to their constitutional roles in overseeing the armed forces. n323 **However, the Supreme Court's overruling** of the Ninth Circuit and vacating of the preliminary injunction r**epresent a renewal of the Court's military deference doctrine**. n324

In fact, **Winter v. NRDC may even extend the doctrine**. For perhaps the first time, **the Court** **determined** that **federal judges cannot substitute their own assessments of military situations when the military offers professional military judgments** on the subject. n325 While many of the other cases in the development of the doctrine examined military judgments impinging upon constitutional rights or purporting to maintain military discipline, **the Winter Court focused on properly weighing military judgments on purely military matters.** n326 **The Court recognized that professional military judgments develop over the course of decades of service,** and that **judges cannot simply** [\*527] **dismiss those opinions as speculative**. n327 **While the history of environmental litigation challenging military actions will no doubt continue, the Winter opinion provides a guidepost to future courts to consider the policy judgments made by Congress and the President prioritizing national security over environmental protection.** n328 By no means discounting the importance of environmental preservation, **the Court reinforced the role of the judiciary in respecting the judgments of the** legislative and **executive branches** in their unique constitutional roles **with respect to the military**. n329

**Supreme Court will rollback lower court opinions that don’t defer to the military**

**McCarty 10** (Richard, associate at Winston & Strawn LLP, Spring 2010, “Winter V. NRDC: The Navy, Submarines, Active Sonar, And Whales - An Analysis Of The Ninth Circuit Review And The Roberts Court Extension Of The Military Deference Doctrine” Houston Law Review, Lexis)

**The Court discussed military deference at length**, pointing out that many of the Navy's most senior officers had provided declarations explaining the importance of ASW training and the [\*505] need for extensive sonar training. n153 **While acknowledging that deference to military interests is not absolute, the Court reasoned that in this case, the public interest in national defense was far greater than the public interest in any environmental impact**. n154 Thus, **the Court criticized the lower courts for failing to defer to the judgment of senior naval officers on the impact of the injunction upon the ability to train and certify strike groups, and for dismissing the Navy's protests as purely speculative.** n155

**The Court similarly criticized the lower court's lack of deference to naval opinions that the expanded shutdown zone of 2,200 yards would result in the loss of several days of trainin**g. n156 Furthermore, **the Court rejected the Ninth Circuit's reasoning on surface ducting, pointing out that the rarity of the condition made it even more important for the Navy to integrate it into its training when possible**. n157

### EPA DA: 2AC

**Multiple controversial rulings coming now**

**Bomboy 3-5**-14 (Scott, staff writer, "Four big Supreme Court decisions on the radar" Constitution Daily) blog.constitutioncenter.org/2014/03/four-big-supreme-court-decisions-on-the-radar/

**As the Supreme Court continues a busy week, Court watchers are wondering if a significant case from last fall could be announced in the next few weeks.** 20050422114651!US\_Supreme\_Court\_Building**Of the 22 cases argued at the Supreme Court in October and November, 17** cases **have already been decided. But four of the remaining** five **cases** from that time period **are** consider **major cases, which have received considerable attention** in the press and in the legal and academic worlds. The Justices will announce at least one opinion today, and one of the major cases could be announced. By this time last year, the Court had already decided two high-profile cases from that term. On February 19, 2013, the Justices ruled in Florida v. Harris and on February 26, the Court decided Clapper v. Amnesty International. In the Harris case, the Court considered if police officers could search a motor vehicle for drugs once a properly trained police dog “alerted” to a smell on a vehicle. Justice Elena Kagan wrote in a unanimous opinion that police could use the dog in a vehicle search in a public area. In Clapper v. Amnesty International, the Court considered if the respondents, including journalists, had standing under Article III of the Constitution to challenge the Foreign Intelligence Surveillance Act (or FISA). The Court, in a 5-4 decision, agreed with the federal government’s claims that the respondents’ fears were based on speculation. But the Court didn’t rule on the constitutionality of FISA. Later in March 2013, the Court decided another major case: Florida v. Jardines. In that decision, Justice Antonin Scalia wrote the majority opinion in a 5-4 decision, which ruled against the use of a police dog to sniff out drugs at a residence as a Fourth Amendment violation. This year, **four big cases from the October/November sessions remain undecided. McCutcheon v. FEC** was heard on October 8, 2013. The basic question in front of the Court in McCutcheon is what restrictions the Constitution allows the government to put on spending in federal elections. The Court might reconsider restrictions on campaign contributions in general, too, in a McCutcheon ruling, so the fate of the 1976 Buckley ruling is also in doubt. The second case is **Schuette v. Coalition to Defend Affirmative Action**, which was heard on October 15, 2013. The Schuette case challenges the constitutionality of a Michigan initiative prohibiting affirmative action programs from being employed in the state. In November, the Court also heard arguments in **Town of Greece v. Galloway**, where the Justices will decide whether a town council’s practice of beginning its legislative meetings with a prayer session violates the First Amendment’s Establishment Clause. It also heard another significant case in early November about international treaties and the 10th amendment: **Bond v. the United States.** The big picture issue in the Bond case is the possible fate of a landmark 1920 Supreme Court decision: Missouri v. Holland. The Holland decision gave Congress the power to pass laws to carry out the U.S. government’s obligations under international treaties.

**Empirics prove the Court doesn’t consider capital**

**Schauer 04** [Frederick, Law prof at Hravard, “Judicial Supremacy and the Modest Constitution”, California Law Review, July, 92 Cal. L. Rev. 1045, ln //uwyo-kn]

Examples of the effects of judicial supremacy hardly occupy the entirety of constitutional law. As the proponents of popular constitutionalism properly claim, it is simply not plausible to argue that all of the Supreme Court's decisions are counter-majoritarian, nor that the Court is unaware of the potential repercussions if a high percentage of its decisions diverges too dramatically from the popular or legislative will. Nevertheless, **there is no indication that the Court uses its vast repository of political capital only to accumulate more** political capital, and in many areas judicial supremacy has made not just a short-term difference, but a long-term difference as well. Perhaps most obvious is school prayer. For over forty years the Court has persisted in its view that organized prayer in public schools is impermissible under the Establishment Clause 59 despite the fact that public opinion is little more receptive to that view now than it was in 1962. 60 So too with flag burning, where the Court's decisions from the late 1960s 61 to the present have remained dramatically divergent from public and legislative opinion. 62 Or consider child pornography, where the Court's decision in Ashcroft v. Free Speech Coalition 63 flew in the face of an overwhelming congressional majority approving the extension of existing child pornography laws to virtual child pornography. Similarly, in the regulation of "indecency," **the Court has spent well over a decade repeatedly striking down acts of Congress that enjoyed overwhelming public and** [\*1059] **congressional support**. 64 Most dramatic of all, however, is criminal procedure, where the Supreme Court's decision in Dickerson v. United States, 65 invalidating a congressional attempt to overrule Miranda v. Arizona, 66 underscores the persistent gap in concern for defendants' rights between Congress and the public, on the one hand, and the Supreme Court, on the other.

**Winners win**

**Law 09** (David, Professor of Law and Professor of Political Science, Washington University in St. Louis, Georgetown Law Journal, March 2009, 97 Geo. L.J. 723; “A Theory of Judicial Power and Judicial Review,” Lexis, rwg)

Part IV of this Article discusses a counterintuitive implication of a coordination-based account of judicial power. **Conventional wisdom suggests that courts secure compliance with their decisions by drawing upon their store of legitimacy, which is undermined by decisions that are unpopular, controversial, or lack intellectual integrity. n25 Part IV argues that precisely the opposite is true: an unpopular or unpersuasive decision can, in fact, enhance a court's power in future cases, as long as it is obeyed. Widespread compliance with a decision that is controversial,** unpopular, or unpersuasive **serves only to strengthen the widely held expectation that others comply with judicial decisions. This expectation, in turn, is self-fulfilling**: those who expect others to comply with a court's decisions will find it strategically prudent to comply themselves, and the aggregate result will, in fact, be widespread compliance. Part IV illustrates these strategic insights--and the Supreme Court's apparent grasp of them--by contrasting [\*734] Bush v. Gore n26 with Brown v. Board of Education n27 and Cooper v. Aaron. n28

**Issues are compartmentalized**

**Redish and Cisar 91** prof law @ Northwestern and Law clerk to US Court of Appeals, 1991

(MARTIN H. REDISH, prof law and public policy @ Northwestern; ELIZABETH J. CISAR, Law Clerk to Chief Judge William Bauer, United States Court of Appeals, Seventh Circuit, Dec 1991, “CONSTITUTIONAL PERSPECTIVES: ARTICLE: "IF ANGELS WERE TO GOVERN" \*: THE NEED FOR PRAGMATIC FORMALISM IN SEPARATION OF POWERS THEORY.”41 Duke L.J. 449)

**Choper's assumption that the judiciary's institutional capital is transferable from structural cases to individual rights cases is no more credible**. Common sense should tell us that **the public's reaction to con- troversial individual rights cases**-for example, cases **concerning abor- tion**,240 school prayer,241 busing,242 **or criminal defendants' rights**243- **will be based largely, if not exclusively, on the basis of its feelings con- cerning those particular issues. It is unreasonable to assume that the public's acceptance or rejection of these individual rights rulings would somehow be affected by anything the Court says about wholly unrelated structural issues.**

**Public supports the plan**

**Reuters 13** (Quoting John McCain, Republican Senator, 6-9-13, "Support growing to close Guantanamo prison: senator" Reuters) www.reuters.com/article/2013/06/09/us-usa-obama-guantanamo-idUSBRE9580BL20130609

Republican Senator John **McCain said** on Sunday **there is increasing public support for closing the military prison at Guantanamo** Bay, Cuba, and moving detainees to a facility on the U.S. mainland. **"There's renewed impetus. And I think that most Americans are more ready," McCain**, who went to Guantanamo last week with White House chief of staff Denis McDonough and California Democratic Senator Dianne Feinstein, **told CNN's "State of the Union" program. McCain**, a senior member of the Senate Armed Services Committee, **said he and fellow Republican Senator** Lindsey **Graham,** of South Carolina, **are working with** the **Obama** administration **on plans that could relocate detainees** to a maximum-security prison in Illinois. "We're going to have to look at the whole issue, including giving them more periodic review of their cases," McCain, of Arizona, said. President Barack **Obama has pushed to close Guantanamo**, saying in a speech in May it "has become a symbol around the world for an America that flouts the rule of law."

**That boosts capital**

**Durr et al 2K** (Robert, “Ideological Divergence and Public Support for the Supreme Court,”, American Journal of Political Science, Volume 44, No. 4, October, p. 775)

We expect our improve measure of aggregate Supreme Court support will be useful to other students of the Court. Unlike support for other institutions, interest in Supreme Court support is driven not by a hypothesized electoral linkage, but by the expectation that **the Court** necessarily **depends on public support as a source of** institutional legitimacy and **political capital. The level of support the Court enjoys has long been viewed as a crucial resource**, both by helping engender a positive response to the Court’s decisions and by encouraging the successful execution of its proclamations, necessarily carried out by other actors and institutions (Caldeira 1986).

#### The ruling won’t cause warming

Barnes 2-23 (Robert, staff writer, "Supreme Court to consider EPA’s authority to regulate greenhouse gases" WP) [www.washingtonpost.com/politics/supreme-court-to-consider-epas-authority-to-regulate-greenhouse-gases/2014/02/23/ec5d4f88-9af4-11e3-ad71-e03637a299c0\_story.html](http://www.washingtonpost.com/politics/supreme-court-to-consider-epas-authority-to-regulate-greenhouse-gases/2014/02/23/ec5d4f88-9af4-11e3-ad71-e03637a299c0_story.html)

But unless the court decides to revisit its 2007 decision that says the EPA has the power to regulate greenhouse gases — and there’s no evidence the justices are willing to reopen that debate — the upcoming ruling may not live up to the hype. Utility Air Regulatory Group v. EPA , which deals with “stationary sources” such as power plants and factories, could end up being more about PR than CO2. Both sides agree that the outcome will not affect the agency’s rules governing emissions from motor vehicles or plans underway to control new power plants. And a victory could be seen as an affirmation of Obama’s authority to move boldly on environmental regulations in the midst of a gridlocked Congress.

**China overwhelms**

Richard **Heinberg**, senior fellow, "China Coal Update," Post Carbon Institute, 3--8--**12**, <http://www.postcarbon.org/blog-post/747521-china-coal-update>, accessed 4-9-12.

Second, **can the world save itself from a climate apocalypse unless China leads the way**? Talk of “climate justice” (which emphasizes the higher per-capita emissions of wealthy nations) is all well and good, but the harsh reality is that **even drastic emissions cuts by the US will mean relatively little unless China also cuts soon and fast**. So far, **indications are that Beijing is keeping the carbon pedal to the metal, despite concurrent efforts to become a world leader in renewable energy. Barring a dramatic global emissions policy breakthrough**, resource limits and economic contraction seem to offer the main hope for keeping climate change to merely “catastrophic” levels.

**Timeframe is 200 years and adaptation solves**

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

**These statements are** largely **alarmist and misleading**. Although climate change is a serious problem that deserves attention, **society’s immediate behavior has anextremely low probabilityof leading tocatastrophic consequences**. The **science and economics** of climate change **is quite clear that emissions over the next few decades will lead to only mild consequences**. The **severe impacts** predicted by alarmists **require a century (or two** in the case of Stern 2006) **of no mitigation**. Many of the **predicted impacts assume there will be no or little adaptation**. The net economic impacts from climate change over the next 50 years will be small regardless. Most of **the more severe impacts will take more than a century or even a millennium to unfold and many of these** “**potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks**. What is needed are long‐run balanced responses.

### PQD DA: 2AC

**The PQD is already dead in the realm for foreign policy**

**Skinner 8/23**, Professor of Law at Willamette

(13, Gwynne, Misunderstood, Misconstrued, and Now Clearly Dead: The 'Political Question Doctrine' in Cases Arising in the Context of Foreign Affairs, papers.ssrn.com/sol3/papers.cfm?abstract\_id=2315237)

Lower federal courts often erroneously cite the “political question doctrine” to dismiss as nonjusticiable individual rights claims arising in foreign or military affairs contexts, a trend that has increased since the 1962 case of Baker v. Carr. Similarly, lower courts have begun citing “special factors counselling hesitation” when dismissing constitutional claims (“Bivens claims”) in similar contexts, inappropriately treating “special factors” as a nonjusticiability doctrine. Lower federal courts should not cite either doctrine as a reason to avoid adjudicating individual rights claims arising **in the context of foreign or military affairs**. Rather, lower federal **courts should adjudicate these claims** on their merits **by deciding whether the political branch at issue had the power under the Constitution to act as it did. Doing so is consistent with the manner in which the Supreme Court has approached these types of cases for over 200 years. The Court affirmed this approach in the 2012 case of Zivotofsky v. Clinton, a case in which the Court once and for all rung the death knell for the application of the “political question doctrine”** as

a nonjusticiability doctrinein cases involving individual rights – even those arising **in a foreign policy context.** In fact, **a historical review of Supreme Court cases demonstrates that the Supreme Court has never applied the** so-called “**political question doctrine**” as a true nonjusticiable doctrine **to dismiss individual rights claims** (and arguably, not to any claims at all), **even those arising in the context of foreign or military affairs**. This includes the seminal “political question” case of Marbury v. Madison. Rather, **the Supreme Court has almost always rejected the “political question doctrine” as a basis to preclude adjudication of individual rights claims, even in the context of foreign or military affairs**. Moreover, the Supreme Court has consistently admonished lower courts regarding the importance of the judiciary branch’s adjudication of individual rights claims, even in such contexts.13 That is not to say that from time to time the Court has not cited a “political question doctrine” in certain of its cases. However, a close review of those cases demonstrates that rather than dismissing such claims in those cases as “nonjusticiable,” the Court in fact adjudicated the claims by finding that either the executive or Congress acted constitutionally within their power or discretion. Moreover, **the post-9/11 Supreme Court cases of Hamdi** v. Rumsfeld, **Rasul** v. Bush, **and** Bush v. **Boumediene, in which the Supreme Court consistently found that the political branches overstepped their constitutional authority, clarified that the doctrine should not be used to dismiss** individual rights claims as nonjusticiable**, even those arising in a foreign or military affairs context. In case there remained any doubt, the Supreme Court in Zivotofsky rejected the “political question doctrine**” as a nonjusticiability doctrine, at least in the area individual rights, if not altogether. The Court found the case, involving whether the parents of a boy born in Jerusalem had the right to list Israel as his place of birth pursuant to a Congressional statute, was justiciable.17 The Court addressed the real issue, which was whether Congress had the authority to trump the President over whether Israel could be listed as the country of birth on passports where a person was born in Jerusalem, notwithstanding the President’s sole authority to recognize other governments. 18 In ruling as it did, the Court stayed true to many of its earlier cases involving “political questions” by adjudicating the claim through deciding whether one of the political branches took action that was within its constitutional authority. **In the case, the Court showed its willingness to limit the power of the President in the area of foreign affairs** rather than finding the claim nonjusticiable.

**No link to PQD**

**Roberts 09** (Caprice, Visiting Professor of Law, The Catholic University of America; Professor of Law, West Virginia University, Fall 2009, "Rights, Remedies, And Habeas Corpus--The Uighurs, Legally Free While Actually Imprisoned" Georgetown Immigration Law Journal, Lexis)

We no doubt live in interesting times. Extraordinary times may well call for extraordinary measures by the political branches of government. **The** [\*30] **federal judiciary may find it prudent to give the political branches wide berth, but it should not turn a blind eye. An ongoing violation of an applicable constitutional right should not go unreviewed and unremedied lightly. The federal courts at issue grappled in good faith with vexing issues raised by the Uighurs' allegations. Ultimately, the highest court to pass on the matter determined that it was powerless to resolve the case or remedy the wrong.** n212 In this section, I maintain that **the federal judiciary is not powerless, despite the potential political question. The federal judiciary possesses the authority under Article III of the Constitution to hear the Uighurs' case, which is otherwise justiciable**. Prudential reasons exist for finding that the case poses a nonjusticiable political question, but the context and rights at stake outweigh those prudential reasons. **Federal courts should lean towards accepting jurisdiction in cases like the Uighurs', because two political branches of government have acted in concert to threaten core constitutional rights.** Alternatively, the Executive exceeded limitations imposed by Congress and operated at the Executive's "lowest ebb" of power. n213 Certainly one political branch, Congress, may serve as an effective check on another political branch, the Executive. Given the pressures of the global war on terror, Congress has often not served as a meaningful check on potential abuses of presidential power. It is in these moments that judicial review is all the more essential. In fact, **judicial review should be exercised unless constitutionally prohibited. Of all the traditional justifications for the political question doctrine, the one with the strongest constitutional force is the textual commitment ground.** Although the immigration cases rely on this ground (as well as others), they differ from traditional political question cases because the text of the Constitution does not explicitly commit exclusion of aliens to the political branches. Rather, the power stems from extra-constitutional sources such as the implied and inherent powers as sovereign. **If the commitment stems from implied powers, the political question doctrine may be inapplicable under a strict construction of t**

**he textual commitment factor. The doubt presented by this gray area may mean declining jurisdiction is not required.** Other political question rationales, including judicial functionality and interbranch respect, suggest moving cautiously, but not halting all review.

**naval power resilient**

Greg **Grant**, military.com associate editor, 2-20-**2009**, “CSBA’s $20 billion a Year Shipbuilding Plan,” DoD Buzz, <http://www.dodbuzz.com/2009/02/20/csbas-20-billion-a-year-shipbuilding-plan/>

To begin with, Work says, **the U.S. Navy is in far better condition than many believe**. **Alarmists** who say U.S. naval power is in serious decline **perform a rather dishonest counting** of the current number of ships and compare that to the 1980s “600 ship Navy” standard. A more honest net assessment compares the size and combat power of the Navy to potential contemporary competitors, which paints a very different picture. Counting those ships that can “perform naval fire and maneuver,” including submarines and aviation platforms, the Navy has 203 warships. The Russian and Chinese navies combined operate 215 warships, so **the U.S. has close to the “two navy standard**” the Royal Navy aimed to maintain in its heyday. Measuring fleet tonnage displacement, the best proxy for measuring a fleet’s overall combat capability, the U.S. Navy enjoys a “13-Navy standard” over the world’s next biggest navies. Because the U.S. Navy early on shifted to vertical launch magazines, it carries far more missiles, 7,804 in 75 warships, than any other navy, adding up to a “twenty-navy firepower standard.” **The Navy enjoys a very high operational tempo that is unmatched by any other nation**. The fleet is transforming to a “collaborative battle network” force that will integrate aerial and sea drones, satellites, seabed sensors into an unmatched command and control system. The Navy can also count on the naval power of its closest ally: the U.S. Coast Guard, with 160 cutters and 800 small craft, a force ideally suited for engaging partner navies. Then there are the 10 carrier air wings, naval special warfare units, P-8A Poseidon Multi-Mission aircraft, aerial drones and 569 MH-60 helicopters. The MH-60s are the “small craft” of the U.S. Navy, faster than any ship, able to patrol vast areas and armed with torpedoes or Hellfire missiles. **The Navy doesn’t need to worry about losing global maritime supremacy anytime soon**, so Work says, the focus should be less about ship numbers and more on how the Navy fits into the national strategy and how to maintain naval dominance going forward in the face of technological advances in precision weapons and targeting. The biggest challenge the fleet will face in the future isn’t that some nation (China) might build a blue water fleet to challenge the Navy on the open ocean, as that would play to our naval and air strengths. Rather, its what Work calls “land based maritime reconnaissance-strike complexes,” land based anti-ship missiles of ever greater range, accuracy, maneuverability and number. The idea of parking carriers offshore and launching sustained air strikes is no longer valid, or at least won’t be very soon. The key parameter in future wars, conducted both from the air and sea, will be range, Work says. The Navy must fight outside the range of an enemy’s anti-air and anti ships missiles, or at least outside the missile salvo fire range. Another evolving challenge is ever more sophisticated undersea combat systems, drones, sonar systems and advanced submarines.

**budget cuts thump**

**CSBA**, Center for Strategic and Budgetary Assessments, 3/12/’**12**

(<http://www.csbaonline.org/2012/03/12/analysis-dod-budget-will-severely-constrain-army-marine-vehicle-modernization/>)

**The Army and Marine Corps will be in the market for** a **new** generation of ground **vehicles** soon. **But acquisition officials there should think hard before they buy**, according to Dr. Andrew Krepinevich, the president of the Center for Strategic and Budgetary Assessments (listen to interview) The **modernization** of Army and Marine Corps ground vehicles **is the subject of a recent** CSBA **report**, “The Road Ahead: Future Challenges and Their Implications for Ground Vehicle Modernization.” **Krepinevich and** his co-author, Eric **Lindsey**, **wrote** that the while both services are in the early stages of **vehicle modernization**, those **efforts “will be severely constrained by** the **budget cuts** **looming over the Department** of Defense.”

### Iran DA: 2AC

**Everything thumps**

**Liptak, 3/7 –** CNN (Kevin, “[Obama drives ahead with domestic agenda – and vacation – amid Ukraine crisis](http://politicalticker.blogs.cnn.com/2014/03/07/obama-drives-ahead-with-domestic-agenda-and-vacation-amid-ukraine-crisis/),” http://politicalticker.blogs.cnn.com/2014/03/07/obama-drives-ahead-with-domestic-agenda-and-vacation-amid-ukraine-crisis/)//HAL

MIAMI (CNN) - The **standoff** between the United States and Russia **over Ukraine** **is not preventing** President Barack **Obama from pursuing his domestic agenda** – and his vacation. **The** foreign policy **crisis has occupied the bulk of Obama's attention** this past week although **he’s also carved out time to press issues opposed by Republicans:** his **budget** proposal, a hike in the **minimum wage, and encouraging Latinos to sign up for Obamacare**. He continued the theme on Friday by visiting a school in Miami to encourage more teenagers to apply for college financial aid. It's a balance Obama has attempted to strike throughout his presidency, from navigating the Arab Spring to sizing up the young new leader of North Korea – all while attempting to shore up a sluggish U.S. economy. Obama also isn't letting the incursion of Russian troops into Ukraine's Crimean peninsula prevent him and his family from enjoying a weekend away from Washington, currently beset by cold temperatures and sloppy piles of melting snow. While the White House signaled earlier in the week that a long-planned getaway in South Florida could be nixed due to overseas events, the commander-in-chief and his family will remain in Key Largo for the weekend. All presidents are routinely criticized for taking time off even though the chief executive always travels with a full retinue of aides and secure communications equipment. This means he can work and the requirements of the job are never far away. Tony Blinken, Obama’s deputy national security adviser, was on the Florida trip. "What the President will be doing this weekend in Florida is essentially what the President would be doing back at the White House. It's just that the weather will be a little warmer," White House spokesman Josh Earnest said. The Obamas will stay at the Ocean Reef Club, a private compound that still enforces a dress code "designed to complement today's more casual lifestyles while still respecting the Club's longstanding traditions." It boasts 36 holes of golf as well as spas and restaurants. Earlier this year, Obama tacked a weekend of golf in California onto a meeting with the king of Jordan at the Sunnyland's estate near Palm Springs. And he golfed regularly on his annual Christmas vacation in Hawaii. At his event Friday at a Miami magnet high school, Obama tried to persuade more students to complete the paperwork required to obtain federal financial aid for college. The White House says the U.S. Department of Education will begin identifying individual students who haven't filled out the Free Application for Federal Student Aid (FAFSA) and use the information to try and convince them to apply. “No striving, hardworking young American should ever be denied a college education just because they can't afford it,” Obama said at Coral Reef Senior High School. He also blasted Congress for what he said was intransigence in approving his education agenda. “Congress needs to stop doing nothing,” he said. “We need to do right by America’s students and America's teachers.” It's all part of Obama’s attempt to increase opportunities for middle class Americans, which has been the goal of his second-term domestic agenda. Part of the push has included pressing Congress to increase the federal minimum wage. During remarks on Wednesday in Connecticut, Obama said that the global flashpoints that have sprung up during his tenure should serve as a reminder of the importance of fortifying the American middle class. "There's been a lot of news about foreign affairs around the world over the last several days, but also for the last couple years," Obama said. "It doesn't matter whether it's in Central Europe or in the Middle East or Africa - individuals want a chance to make it if they try. And what makes us special is we already do that when we're at our best. But we've got some work to do to match up our ideals with the reality that's happening on the ground right now."

**No chance of Iran sanctions – supporters gave up**

**Parsi 2/19/14** (Trita, founder and president of the National Iranian American Council and an expert on US-Iranian relations, Iranian politics, and the balance of power in the Middle East., "The Illusion of AIPAC’s Invincibility," http://www.fairobserver.com/article/illusion-aipac-invincibility-52678)

**The defeat of** **the** American Israel Public Affairs Committee's (**AIPAC) ill-advised push for new sanctions on Iran** in the midst of successful negotiations **is nothing short of historic**. The powerful and hawkish pro-Israeli lobby's defeats are rare and seldom public. But in the last year, it has suffered three major public setbacks, of which the sanctions defeat is the most important one.¶ Defeats?¶ AIPAC's first defeat was over the nomination of Senator Chuck Hagel for secretary of defense. In spite of a major campaign defaming Hagel, even accusing him of anti-Semitism, his nomination won approval in the Senate.¶ The second was over President Barack Obama's push for military action against Syria. AIPAC announced that it would send hundreds of citizen lobbyists to the Hill to help secure approval for authorization of the use of force. But AIPAC and Obama were met with stiff resistance.¶ The American people quickly mobilized and ferociously opposed the idea of yet another war in the Middle East. By some accounts, AIPAC failed to secure the support of a single member of Congress.¶ The third defeat was over new Iran sanctions. Now, **AIPAC and the president were on opposite sides**. The interim nuclear agreements from last November explicitly stated that no new sanctions could be imposed.¶ Yet backed by Senators Mark Kirk and Robert Menendez, AIPAC pushed for new sanctions, arguing that it would enhance America's negotiating position. The White House strongly disagreed, fearing that new sanctions would cause the collapse of diplomacy and make America look like the intransigent party.¶ The international coalition the president had carefully put together against Iran would fall apart, and the US and Iran would once again find themselves on a path towards military confrontation.¶ But AIPAC insisted. Its immense lobbying activities secured 59 cosponsors for the bill, including 16 Democrats. **Its aim was first to reach over 60 cosponsors** to force the bill to the floor, **and then more than 67 cosponsors to make it veto proof**.¶ **But 59 cosponsors turned out to be a magical ceiling AIPAC could not break** through. Supporters of diplomacy put up an impressive defense of the negotiations policy, building both from years of careful development of a pro-diplomacy constituency and coalition machinery as well as the grassroots muscle of more recent additions to the pro-diplomacy camp. (To get a hint of who these forces are, see the coalition letter against new sanctions signed by more than 70 organizations and organized by Win Without War, FCNL and the author's own organization, the National Iranian American Council.)¶ **The watershed moment came when the White House raised the temperature and called out the sanctions supporters for increasing the likelihood of war**.¶ "If certain members of Congress want the United States to take military action, they should be up front with the American public and say so," Bernadette Meehan, National Security Council spokeswoman, said in a statement. "Otherwise, it's not clear why any member of Congress would support a bill that possibly closes the door on diplomacy and makes it more likely that the United States will have to choose between military options or allowing Iran's nuclear program to proceed."¶ The prospect of coming across as "warmongers" incensed AIPAC and its supporters. But **the White House knew exactly what it was doing**. It was tapping into the only force that could stop AIPAC – the war-wariness of the American public.¶ The very same energy among the public that put a stop to the White House's war plans for Syria, would now be used to put a stop to AIPAC's efforts to sabotage the last best chance to avoid war with Iran.¶ AIPAC on the Defensive¶ **The angry reaction of the sanctions supporters only confirmed the effectiveness of the White House's strategy**. AIPAC was put on the defensive and it could never explain how imposing diplomacy-killing sanctions were good for the negotiations. Chemi Shalev of the Israeli daily Haaretz put it best:¶ "Some of [AIPAC's] supporters claimed that it was meant to strengthen Obama's hand in the nuclear negotiations with Iran, when it was clear that they meant just the opposite: to weaken the president and to sabotage the talks. They couldn't speak this truth outright, so they surrounded it, as Churchill once said, with a bodyguard of lies."¶ **AIPAC finally threw in the towel on new sanctions on February 6**. The defeat was an undeniable fact.

**Waivers solve the impact**

Adam **Kredo, 1/21/14,** White House Seeks to Bypass Congress on Iran Deal, freebeacon.com/white-house-seeks-to-bypass-congress-on-iran-deal/

**The White House has been exploring ways to circumvent Congress and unilaterally lift sanctions on Iran** once a final nuclear agreement is reached, according to sources with knowledge of White House conversations and congressional insiders familiar with its strategy.

The issue of **sanctions relief has become one of the key sticking points in the Iran debate**, with lawmakers pushing for increased economic penalties and the White House fighting to roll back regulations.

While many in Congress insist that only the legislative branch can legally repeal sanctions, senior **White House officials have been examining strategies to skirt Congress**, according to those familiar with internal conversations.

Sen. Mark Kirk (R., Ill.), who is leading the charge on new sanctions legislation, said that it is unacceptable for the White House to try to bypass Congress on such a critical global issue.

“The American people must get a say in any final nuclear agreement with Iran to ensure the mullahs never get the bomb,” Kirk told the Washington Free Beacon. “The administration cannot just ignore U.S. law and lift sanctions unilaterally.”

Congressional insiders say that **the White House is worried Congress will** exert oversight of the deal and **demand tougher nuclear restrictions** on Tehran in exchange for sanctions relief.

Top White House aides have been “talking about ways to do that [lift sanctions] without Congress and we have no idea yet what that means,” said one senior congressional aide who works on sanctions. “They’re looking for a way to lift them by fiat, overrule U.S. law, drive over the sanctions, and declare that they are lifted.”

Under the interim nuclear deal with Iran that began on Monday, Tehran will receive more than $4 billion in cash, according to the White House.

**President Barack Obama could unilaterally unravel sanctions through several executive channels,** **according to** former government officials and **legal experts.**

**Executive orders grant the president significant leverage in the how sanctions are implemented, meani**

**ng that Obama could choose to stop enforcing many of the laws on the books**, according to government insiders.

Those familiar with the ins and outs of sanctions enforcement say that the White House has long been lax with its enforcement of sanctions regulations already on the books.

**“It’s no secret that the president, with executive power, can determine sanctions implementation,** **particularly with waivers and the decision not to sanction certain entities**,” said Jonathan Schanzer, a former terrorism finance analyst at the Treasury Department, which is responsible for enforcing sanctions.

“The financial pressure has always been about closing loopholes and identifying new ones to close,” Schanzer added. “If you stop that process of constant gardening, you leave a backdoor open.”

**Obama could also use executive waivers to “bypass restrictions imposed by the** law,” according to a report by Patrick Clawson, director of research at the Washington Institute for Near East Policy (WINEP).

**The president has a lot of leverage when it comes to sanctions and could effectively “turn a blind eye” to Iranian infractions**.

“**In the case of Iran, such an approach could allow Washington to reach a nuclear accord without Congress having to vote on** rescinding, even temporarily or conditionally, certain **sanctions**,” Clawson wrote. “**No matter how stiff and far-reaching sanctions may be as embodied in U.S. law, they would have less bite if the administration stopped enforcing them**.”

One former senior government official said that President Obama’s legal team has likely been investigating the issue for quite some time.

“I’d be shocked if they weren’t putting the various sanctions laws under a microscope to see how they can waive them or work around them in order to deliver to Iran sanctions relief without having to worry about Congress standing in their way,” said Stephen Rademaker, who served as deputy legal adviser to former President George H.W. Bush’s National Security Council (NSC).

Executive branch lawyers are often tasked with finding ways to get around existing legislation, Rademaker said.

“I’m sure pretty early in the negotiating process they developed a roadmap” to ensure the president has the authority to promise Iran significant relief from sanctions, said Rademaker, who also served as chief council for the House Committee on International Relations. “I’m sure they’ve come up with an in depth analysis of what they can do relying exclusively on the president’s legal authority.”

**The White House has been known to disregard portions of the sanctions laws that it disagrees with,** according to Schanzer.

**Obama Gitmo push thumps**

Josh **Lederman**, “Obama Looks Ahead to 2014 after Finishing 2013 Business,” HUFFINGTON POST, **12—27**—13, <http://www.huffingtonpost.com/2013/12/27/obama-2014_n_4507493.html>, accessed 12-30-13.

And **2014 may provide a final chance for Obama to push to close** the U.S. prison at **Guantanam**o Bay, Cuba, **an effort that Congress has blocked** through restrictions on transferring detainees. In a statement after he signed the defense bill Thursday, **Obama** praised Congress for removing some of those restrictions in the bill, but he **called for further steps to lift constraints, including a ban on transf**erring detainee**s** to the U.S. for imprisonment, trial or medical emergencies.

**"I** oppose these provisions, as I have in years past, and **will continue to work with the Congress to remove these restrictions," Obama said,** adding that some of the remaining restrictions, in some circumstances, "would violate constitutional separation of powers principles."

#### \*\*Court don’t link—gitmo-specific

Stimson 9

[09/25/09, Cully Stimson is a senior legal fellow at the Heritage Foundation and an instructor at the Naval Justice School former American career appointee at the Pentagon. Stimson was the Deputy Assistant Secretary of Defense for Detainee Affairs., “Punting National Security To The Judiciary”, http://blog.heritage.org/2009/09/25/punting-national-security-to-the-judiciary/]

So what is really going on here? To those of us who have either served in senior policy posts and dealt with these issues on a daily basis, or followed them closely from the outside, it is becoming increasingly clear that this administration is trying to create the appearance of a tough national-security policy regarding the detention of terrorists at Guantanamo, yet allow the courts to make the tough calls on releasing the bad guys. Letting the courts do the dirty work would give the administration plausible cover and distance from the decision-making process. The numbers speak for themselves. Of the 38 detainees whose cases have been adjudicated through the habeas process in federal court in Washington, 30 have been ordered released by civilian judges. That is close to an 80 percent loss rate for the government, which argued for continued detention. Yet, how many of these decisions has this administration appealed, knowing full well that many of those 30 detainees should not in good conscience be let go? The answer: one. Letting the courts do it for him gives the president distance from the unsavory release decisions. It also allows him to state with a straight face, as he did at the Archives speech, “We are not going to release anyone if it would endanger our national security, nor will we release detainees within the United States who endanger the American people.” No, the president won’t release detainees; he’ll sit back and let the courts to do it for him. And the president won’t seek congressional authorization for prolonged detention of the enemy, as he promised, because it will anger his political base on the Left. The ultra-liberals aren’t about to relinquish their “try them or set them free” mantra, even though such a policy threatens to put terrorists back on the battlefield. Moreover, the president would have to spend political capital to win congressional authorization for a prolonged detention policy. Obviously, he would rather spend that capital on other policy priorities. Politically speaking, it is easier to maintain the status quo and let the detainees seek release from federal judges. The passive approach also helps the administration close Gitmo without taking the heat for actually releasing detainees themselves.

#### The decision won’t be announced till May, after the DA

SCOTUS 12 (Supreme Court of the United States, 7/25/2012 “The Court and Its Procedures,”

http://www.supremecourt.gov/about/procedures.aspx, Accessed 7/25/2012, rwg)

The Court maintains this schedule each Term until all cases ready for submission have been heard and decided. In May and June the Court sits only to announce orders and opinions. The Court recesses at the end of June, but the work of the Justices is unceasing. During the summer they continue to analyze new petitions for review, consider motions and applications, and must make preparations for cases scheduled for fall argument.

**War power fights inevitable but Obama stays out**

**Brown 1-19** (Hayes, “How Two Senators Want To Change The Way The U.S. Wages War,” <http://thinkprogress.org/security/2014/01/19/3182921/senators-want-change-wages-war/>, CMR)

**In the aftermath of** last year’s aborted military campaign against **Syria, two senators want to rewrite the rules that have** — in theory at least — **governed the way the U**nited **S**tates **has used military force** for the last forty years. Following the chemical attack in Syria that killed hundreds, the United States for a time seemed on the verge of launching military action against Syria to punish its unleashing of such deadly weapons. That original determination to retaliate against **Syria** for crossing President Obama’s so-called “red-line” in turn **launched a debate over** whether **the president** had the **authority** to take such action without Congressional approval. That’s where the recently introduced War Powers Consultation Act comes in. **The new legislation** — which Sens. Tim Kaine (D-VA) and John McCain (R-AZ) introduced on Thursday — **would** replace the War Powers Act of 1973 in its entirely, enacting a new set of rules to, in the senators belief, better **keep the president accountable** when it comes to the use of force. Rather than only having to notify Congress after launching military action, Kaine and McCain want the force presidents to consult with legislators prior to sending U.S. soldiers, sailors, and pilots into harm’s way. Under current law, the president has to notify Congress whenever placing forces in areas where “imminent” hostilities are likely, and is given a sixty-day window to conduct the operation absent Congressional approval and another thirty-days allotted towards withdrawal. **The new proposal would reduce** that **autonomy**, **requiring the Executive** Branch **to “consult with Congress before ordering deployment into** a ‘significant armed **conflict**,’ or, combat operations lasting, or expected to last, more than seven days.” That provision would exclude humanitarian missions and covert operations, and the initial consultation could be deferred in time of emergency, but must take place within three days after. The legislation would also raise a new joint committee composed of the heads of the Armed Services, Foreign Relations, Intelligence, and Appropriations in both Houses of Congress “to ensure there is a timely exchange of views between the legislative and executive branches, not just notification by the executive.” Finally, the law, if passed and signed, would require a vote in Congress in support of or against any military operation within 30 days. “Under the Act, all Members of Congress would eventually be asked to vote on decisions of war in order to ensure a deliberate public discussion in the full view of the American public, increasing the knowledge of the population and the accountability of our elected officials,” a press release announcing the legislation reads. “I came to the Senate … with a number of passions and things I hoped to do, but I think I only came with one obsession, and this is that obsession,” Kaine said on the Senate floor when introducing the bill. “I do not think there is anything more important than — than the Senate and Congress can do than to be on the board on decisions about whether or not we initiate military action, because if we don’t, we are asking young men and women to fight and potentially give their lives, with us not having done the hard work of creating the political consensus to support them.” For now, **the White House has yet to take a public stance on** **how it views** McCain and Kaine’s **legislation**. “The Administration is reviewing the legislation and we will continue to work closely with Congress on matters associated with the use of U.S. military force,” National Security Council spokesperson Caitlin Hayden said in an email to ThinkProgress. Neither senator’s office responded to inquires as to whether the White House was consulted in drafting the bil.

#### won’t escalate

Matthew **Kroenig 12** Matthew Kroenig is a Stanton nuclear security fellow at the Council on Foreign Relations and an assistant professor of government at Georgetown University. From July 2010 to July 2011, he was a Council on Foreign Relations International Affairs Fellow in the Department of Defense, where he worked on Middle East defense policy and strategy. Previously, in 2005, he worked as a strategist in the Office of the Secretary of Defense “Why Attacking Iran Is A Good Idea” March 21, 2012 http://postwarwatch.com/2012/03/21/matthew-kroenig-attacking-iran/

The United States would try to build international support for an attack, to build a coalition, or even call for a vote in the UN Security Council. China and Russia would almost certainly veto such a measure, so it is very unlikely there could be a Security Council Resolution. But the US could build an international coalition with the British, the French, and other allies to support an attack. The question is, what would China and Russia do, would they support Iran? They are not formal allies of Iran

. They have been less than amicable with Iran; Russia and China would almost certainly protest a US strike, yet it is unlikely that they could or would retaliate in a meaningful way against the United States economically or militarily: I think they would lodge a diplomatic protest, but that is all.

# \*\*1AR\*\*

### bwpnz

#### New tech will ease delivery, increase bioweapon lethality—experts agree

Judith **Miller**, contributing editor, "Bioterrorism's Deadly Math," CITY JOURNAL, Fall 20**08**, pp. 53-61.

The challenge grows larger each day as the biotech revolution spreads skills and knowledge around the globe. Margaret Hamburg, a physician who served in senior health posts in the federal government and in New York City, calls the explosion of biotechnology "frightening." In a speech last September, she speculated on a variety of weapons, some already existent and others still being researched, that foes might deploy one day: aerosol technology to deliver infectious agents more efficiently into the lungs; gene therapy vectors that could cause a permanent change in an infected person's genetic makeup; "stealth" viruses that could lie dormant in victims until triggered; and biological agents intentionally engineered to be resistant to available antibiotics or evade immune response.

#### Biological agents are readily available—poorly secured

Bob **Graham** et al., Chair, WORLD AT RISK: THE REPORT OF THE COMMISSION ON THE PREVENTION OF WMD PROLIFERATION AND TERRORISM, December 20**08**, p. xvi.

Meanwhile, biotechnology has spread globally. At the same time that it has benefited humanity by enabling advances in medicine and in agriculture, it has also increased the availability of pathogens and technologies that can be used for sinister purposes. Many biological pathogens and nuclear materials around the globe are poorly secured—and thus vulnerable to theft by those who would put these materials to harmful use, or would sell them on the black market to potential terrorists.

#### Biomaterials are readily available--lax security at many facilities

Bob **Graham** et al., Chair, WORLD AT RISK: THE REPORT OF THE COMMISSION ON THE PREVENTION OF WMD PROLIFERATION AND TERRORISM, December 20**08**, p. 4.

Despite these shortcomings, the United States is actually at the forefront of laboratory security in the world today and has by far the most stringent regulations to restrict access to dangerous pathogens. Most developing countries, in contrast, have largely ignored the problem of biosecurity because of competing demands for their limited budgets.

Security gaps at laboratories that store and work with dangerous pathogens, both in the United States and around the world, are worrisome because of continued interest in biological weapons. Director of National Intelligence Michael McConnell said in a recent speech, “One of our greatest concerns continues to be that a terrorist group or some other dangerous group might acquire and employ biological agents . . . to create casualties greater than September 11.”

#### Threat of bioterrorism will grow in the future—driven by advances in biotechnology

Bob **Graham** et al., Chair, WORLD AT RISK: THE REPORT OF THE COMMISSION ON THE PREVENTION OF WMD PROLIFERATION AND TERRORISM, December 20**08**, p. 12.

In addition to the current threat of bioweapons proliferation and terrorism, a set of over-the-horizon risks is emerging, associated with recent advances in the life sciences and biotechnology and the worldwide diffusion of these capabilities. Over the past few decades, scientists have gained a deep understanding of the structure of genetic material (DNA) and its role in directing the operation of living cells. This knowledge has led to remarkable gains in the treatment of disease and holds the promise of future medical breakthroughs. The industrial applications of this knowledge are also breathtaking: it is now possible to engineer microorganisms to give them new and beneficial characteristics. Activity has been particularly intense in the area of biotechnology known as synthetic genomics. Since the early 1980s, scientists have developed automated machines that can synthesize long strands of DNA coding for genes and even entire microbial genomes. By piecing together large fragments of genetic material synthesized in the laboratory, scientists have been able to assemble infectious viruses, including the polio virus and the formerly extinct 1918 strain of the influenza virus, which was responsible for the global pandemic that killed between 20 million and 40 million people. As DNA synthesis technology continues to advance at a rapid pace, it will soon become feasible to synthesize nearly any virus whose DNA sequence has been decoded—such as the smallpox virus, which was eradicated from nature in 1977—as well as artificial microbes that do not exist in nature. This growing ability to engineer life at the molecular level carries with it the risk of facilitating the development of new and more deadly biological weapons.

## Warming—Ext 1--Adaptation 2NC (:40

#### Adaptation solves—worst case scenario it takes 200 years plenty of time to adapt—that’s Mendelson

#### Tech advances faster than feedbacks

Indur **Goklany**, PhD., “Misled on Climate change: How the UN IPCC (and others) Exaggerate the Impacts of Global Warming,” POLICY STUDY n. 399, Reason Foundation, 12—**11**, 12.

The second major reason why future adaptive capacity has been underestimated (and the impacts of global warming systematically overestimated) is that few impact studies consider secular technological change.25 Most assume that no new technologies will come on line, although some do assume greater adoption of existing technologies with higher GDP per capita and, much less frequently, a modest generic improvement in productivity. Such an assumption may have been appropriate during the Medieval Warm Period, when the pace of technological change was slow, but nowadays technological change is fast (as indicated in Figures 1 through 5) and, arguably, accelerating. It is unlikely that we will see a halt to technological change unless so-called precautionary policies are instituted that count the costs of technology but ignore its benefits, as some governments have already done for genetically modified crops and various pesticides.

## PQD DA

### budget cuts

No money means no new modernization

**Murdoch**, senior advisor, Sayler, and Crotty, research associates – CSIS, 10/18/**’12**

(Clark, Kelley, and Ryan, “The Defense Budget’s Double Whammy: Drawing Down While Hollowing Out from Within,” <http://csis.org/files/publication/121018_Murdoch_DefenseBudget_Commentary.pdf>)

Thus, this drawdown will be much more serious than those of years past. Why? Because the aggregate impact of inflation in the cost of personnel, health care, operations and maintenance (O&M), and acquisitions results in a defense dollar that “buys” less and less capability. This internal cost inflation is driving DoD toward a zero-sum trade-off between personnel end-strength and modernization (see Figure 2). Among the largest contributors to internal cost inflation is the military personnel (including health care) account. As DoD’s own “Defense Budget Priorities and Choices: January 2012” has noted, “the cost of military personnel has grown at an unsustainable rate over the last decade…Within the base budget alone…personnel costs increased by nearly 90 percent or about 30 percent above inflation [since 2001], while the number of military personnel has increased by only about 3 percent.” Operations and maintenance (O&M) costs have similarly ballooned over the past few decades. The Congressional Budget Office (CBO) reports in “Long-Term Implications of the 2012 Future Years Defense Program” that O&M costs per active-duty service member doubled from $55,000 to $105,000 (in constant 2012 dollars) between 1980 and 2001. These costs rose to $147,000 in DoD’s 2012 base-budget request and were projected to “grow at more than one and one-half times the historical (pre-2001) rate through the Future Years Defense Program (FYDP) period, reaching $161,000 in 2016.” While the rate of growth is expected to slow beyond 2016, CBO expects per capita O&M costs to reach $209,000 by 2030. In combination, inflation in these accounts will squeeze out all funding for modernization (procurement and research, development, test, and evaluation [RDT&E]) in 2020, as depicted in Figure 2, if current trends are allowed to continue. This will, in the absence of extensive reform, force DoD to choose between sustaining end-strength and sustaining modernization. It cannot do both. The Zero-Sum Trade-Off The CSIS study team calculates that restoring modernization’s share of the FY2021 defense budget to 32 percent (the level of effort in the FY2001 budget) would require cutting end-strength by 455,000 active-duty service members, leaving the services with an end-strength of 845,000 (see Figure 3). This zero-sum trade-off will produce far more severe and disruptive consequences than is generally recognized by the department, requiring, at the very least, a wholesale recalibration of U.S. defense strategy and force posture. The Squeeze on Discretionary Spending This choice between modernization and end-strength will almost certainly remain even if sequestration is averted by congressional action. This is because discretionary spending tradespace (for both defense and nondefense accounts) is being squeezed out by mandatory spending—which includes spending on veteran benefits, income security, social security, Medicare, and Medicaid—and interest payments. And given Democratic aversion to entitlement cuts and Republican antipathy to tax increases, the defense budget, which constitutes 54 percent of discretionary spending, will likely be forced to absorb additional reductions under any scenario. (Estimates of the scale of alternatives to sequestration range from a total of $1 trillion to $1.5 trillion. Senate Armed Services Committee chairman Carl Levin has suggested that an additional $100 billion reduction over 10 years would be “realistic”.) Regardless of the distribution of any cuts, however, mandatory spending and interest payments are expected to consume the entirety of the U.S. budget by 2036, leaving no discretionary tradespace for either defense or nondefense accounts (see Figure 4).

Military will run out of cash—means zero new platforms or programs

**Spring,** research fellow in national security – Heritage, 12/21/’**11**

(Baker, “An Unacceptable Squeeze on Defense Modernization”)

Following the enactment of the Budget Control Act earlier this year, the budget for the core defense program is already operating under stringent spending caps. At the same time, per capita expenditures for paying military personnel and operating the force are high and growing rapidly. Under these circumstances, funding for the procurement of new weapons and equipment and for research and development on new defense technologies will be squeezed to a dangerous degree. A Looming Disaster for the Military and U.S. Security Both the Obama Administration and Congress will be tempted to leave the defense spending caps in place—if not to go to even lower caps—now that the sequestration process could be applied to the defense budget under the Budget Control Act. This is a result of the failure of the Joint Select Committee on Deficit Reduction (“super committee”) to agree on an alternative deficit-reduction plan and adopt a policy of “people over platforms” in slicing up the defense budget pie. Given the uncertainties in the application of the sequestration process, it is impossible to calculate precisely how much more the modernization accounts will be squeezed if that process kicks in. Suffice it to say that the problem is likely to become dramatically worse. The implications of the coming squeeze on defense modernization under the existing spending caps should cause great alarm for all concerned, particularly since it comes on the heels of the “procurement holiday” of the 1990s. The result will be a military that lacks the modern weapons and equipment it needs, loses its technological edge over future enemies, and finds itself dependent on a seriously eroded defense industrial base. Congress will have to take two essential steps to avoid a disastrous outcome for the military and U.S. security. First, it will have to increase the existing caps on spending for the core defense program and find savings elsewhere in the federal budget to offset this change, in accordance with Heritage’s December 5 recommendations.[1] Second, it will have to take steps to constrain per capita growth in the cost of compensating military personnel. The Sources of the Modernization Squeeze There are two sources of the squeeze on military modernization. First, the Budget Control Act has established caps on spending for national security and discretionary spending over the next 10 years that translate into inadequate defense budgets under any circumstance. These caps will constitute top-down pressure on the modernization accounts (procurement and research and development) within the defense budget. This top-down pressure will be accompanied by significant pressure from underneath by growth in both the overall and per capita costs of compensating military personnel. These increasing costs are largely driven by the array of defined benefits offered by the Department of Defense to military service members and their dependents, which fall mostly in the areas of military retirement and health care. These would be more effective and efficient if they were converted to defined-contribution plans. According to the Department of Defense (DOD), its overall military manpower costs will rise from roughly $148 billion today to more than $160 billion in fiscal year (FY) 2016. This increase will come in spite of proposed reductions in the number of people serving in the active-duty military. Although the number of active-duty military personnel is projected to drop by about 5 percent from FY 2012 through FY 2016, military personnel spending will rise, thanks to growing per capita compensation costs. Per capita compensation for active-duty personnel is projected to rise by more than 13 percent during the same five-year period. The reduction in the number of active-duty military personnel, as currently projected by the Obama Administration, will create a force that is too small to defend the vital interests of the United States. The Heritage Foundation has recommended that this reduction not be imposed. Accordingly, DOD’s projection of total military manpower costs is well below what is prudent. It is also appropriate to point out that while, according to the Congressional Budget Office, the overall per capita costs for operation and maintenance will come down with the withdrawal of U.S. forces from Iraq and Afghanistan, the per capita costs for operations and maintenance within the core defense program will continue to rise as well. The Scope of the Modernization Squeeze As a result of the twin pressures of the estimated spending caps on the core defense program derived from the Budget Control Act—which still excludes the more stringent caps that would result from the imposition of a partial or full sequestration under the Act—and the rising cost of military compensation, the level of funding for military modernization will necessarily fall to unacceptably low levels. (See chart.) Under this scenario, funding for defense modernization within the core defense program (defined as the sum of DOD’s procurement account and research, development, test, and evaluation account) could fall to roughly $145 billion in current dollars in FY 2016. By way of comparison, $188.4 billion was to go to these accounts under President Obama’s original budget request for FY 2012. Thus, the level of modernization funding is estimated to decline by about $43 billion in current dollars, or 23 percent, over the four-year period. In terms of inflation-adjusted dollars, the decline will be roughly $54 billion (in FY 2012 dollars), or about 29 percent. In other words, President Obama’s original request for the core DOD budget would have devoted roughly 34 percent of that budget to modernization. By 2016, modernization funding could fall to about 26 percent of total DOD funding for its core program. When these comparisons are expanded to provide a broader perspective, the situation becomes even more alarming. For example, the Department of Defense spent more than $226 billion on modernization in FY 1985 (in FY 2012 dollars). This was 39 percent of the total DOD budget. That means DOD could be on a path to cutting modernization’s share of its total budget to little more than one-half of what it was in FY 1985.

**no hotspots impact--navy won’t be deployed, if it does it will be delayed**

**Watts 12**

Robert, graduate of the Coast Guard Academy, Captain Watts has served six sea tours with the Navy and Coast Guard, most recently commanding USCGC Steadfast (WMEC 623). A qualified Surface Warfare Officer and Cutterman, he holds advanced degrees from the Naval War College, Old Dominion University, American Military University, and the Naval Postgraduate School, and he is currently a doctoral candidate at the Royal Military College of Canada (War Studies). The New Normalcy-Sea Power and Contingency Operations in the Twenty-First Century

http://www.usnwc.edu/getattachment/87e866a1-24dd-4e91-9ffa-cb0f64f15144/The-New-Normalcy--Sea-Power-and-Contingency-Operat.aspx

**The inherent mobility of sea power means** largely what it does in the traditional role**—modern technology allows global reach** in three **dimensions and almost instant operational coordination worldwide.** But **the primary barrier to mobility in crisis-contingency operations is not technological**. **If mobility is to be exercised, ships must actually sail, and it is here—in the commitment of resources to a crisis —that things become culturally problematic**. Despite the need, the answer to a crisis contingency is not always to employ sea power immediately. This cultural hesitancy has two aspects. The first is so deeply ingrained in the American psyche that it is more a matter of legend than of practical discussion. The United States has a long-standing tradition of rejecting the use of military forces in the domestic context, a rejection that dates back to the Revolution. It was codified in law with the passing of the Posse Comitatus Act of 1878, which directs that military forces (specifically the U.S. Army) cannot engage in domestic law enforcement.18 The legislation is often misinterpreted as meaning that any domestic use of military forces is illegal; that is not the case, but it is nevertheless widely believed in both civilian and military 56 NAVAL WAR COLLEGE REVIEW circles.19 Thus **before naval forces can be committed to a crisis, a comprehensive legal review is often demanded, something that takes time—time that is usually not available. Another cultural barrier arises from service ethos**. Bluntly, **warships are designed and train to fight. In the modern high-tech era, naval warfare is a very specific** (and expensive) **proposition**. **It demands very sophisticated and specialized equipment**. The radar on an Aegis cruiser, for example, is exceptionally good at tracking and destroying enemy aircraft—but only that. In a crisis contingency that marginalizes that purpose of a platform’s defining systems, the purpose of the platform itself could be called into question. According to this logic, if a vessel is employed (albeit successfully) for a purpose for which it is not designed, the door is opened for its increasing use for that purpose and not its proper one. In the grand scheme of things, warships used for other purposes are not training for war; in the short term this leads to a loss of readiness for combat, while in the longer term it could mean the elimination of platforms altogether in favor of others more suitable for noncombat missions. Although this seems to be a largely philosophical argument, **in a shrinking budget environment it is not without a certain politically compelling logic.** **The effects of these factors are not insignificant. In recent crisis contingencies** (the mass migration operations of 1994 and Katrina) **the arrival of naval vessels was delayed while legal and operational impact issues were addressed**, in the Katrina case so long as to become a national embarrassment.**20 Bureaucratic reasons, not materiel, were the culprits, ultimately to the detriment of the response**. **Hesitancy can be fatal in an operation requiring rapid response**, and culture and bureaucracy can conspire to encourage just that.