## 1NC

**t1**

**Restrictions are prohibitions on action --- the aff is not**

Jean **Schiedler-Brown 12**,Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. **The ordinary definition of** the term "**restrictions**" also **does not include** the **reporting and monitoring or supervising** terms and conditions that are included in the 2001 Stipulation.

**Black's Law** Dictionary, 'fifth edition,(1979) **defines "restriction" as**;

**A limitation** often **imposed** in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. **To prohibit from action**; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

**In contrast**, the terms "**supervise" and "supervisor" are** defined as; **To have** general **oversight** over, to superintend **or** to **inspect**. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that **the** **definition of "restriction" is very different from the definition of "supervision**"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. **Kincheloe** essentially **agreed to some supervision conditions**, **but** he **did not agree to restrict his license**.

**\*\*“On” means in contact with and links “restrictions” only to war powers authority**

**Graham 16** (Arthur Butler, “Brief for Appellants – Wilson v. Dorflinger& Sons”, Court of Appeals – State of New York, Reg. 108, Fol. 387, 1916, p. 11-12)

**The Standard Dictionary defines the word “on” as follows:** “In or into such a position with reference to something, as a vehicle, a table, or a stage, as to be **in contact with** and supported by it; in a position, state, or condition of adherence; as, he go on before the wagon had fully stopped.” In Webster’s International Dictionary, we find as follows: “on—The General signification of “on” is situation, motivation, motion, or condition with respect to contact or support beneath as (1) at or in contact with, the surface or upper part of a thing, and supported by it; placed or lying in contact with the surface; as, the book lies on the table, which stands on the floor of a house on an island.” It is submitted that an elevator is not operated on streets or on highways, as a car, truck or wagon is operated, and that **by the use of the word “on”** the **Legislature intended to include only those** appliances **therein enumerated**, namely, cars, trucks, and wagons. An elevator is not operated on anything, but is operated in or inside a shaft, and is controlled by guides, which deprive the operator of the power to change the course of the lift from right to left. Clearly the Legislature intended to include in Group 41, only those cars, trucks and wagons whose direction and guidance are controlled by the operator, in whatever direction he may deem advisable.

**“Substantially” means the plan must be across the board**

**Anderson et al, 2005**[Brian Anderson, Becky Collins, Barbara Van Haren & Nissan Bar-Lev, WCASS Research / Special Projects Committee\* Report on: A Conceptual Framework for Developing a 504 School District Policy, http://www.specialed.us/issues-504policy/504.htm]

**A substantial limitation is a significant restriction** as to the condition, manner, or duration **under which an individual can perform a particular major life activity** as **compared** **to** **the** condition, manner, or duration under which the **average person in the general population** can perform that same major life activity.¶ The 504 regulation does not define substantial limitation, and the regulation gives discretion to schools to decide what substantial limitation is. The key here is to be consistent internally and to be consistent with pertinent court decisions.¶ **The issue “Does it substantially limit** the major life activity?” **was clarified by the US Supreme Court** decision on January 8th, 2002 , “Toyota v. Williams”. In this labor related case, **the Supreme Court noted that to meet the “substantially limit” definition**, the **disability must occur across the board** **in multiple environments**, not only in one environment or one setting. The implications for school related 504 eligibility decisions are clear: The disability in question must be manifested in all facets of the student’s life, not only in school.

**Violation: texas limits “humanitarian justifications” not “war powers authority”**

**Vote neg  
limits and ground- anything can indirectly affect war powers-- makes the topic bidirectional and steals core neg counterplan ground**

**Precision- restrictions is a term of art—precision key to predictable division of ground and directs our research—uniquely important early in the year**

### T2

#### US Armed Forces means active duty military personnel – prefer it – congressional definition

US Congress 80 ("U.S. Policy in the Far East," US Congress - House Committee on Foreign Affairs, p. 98)

(a) "United States armed forces" means the personnel on active duty belonging to the land, sea or air armed services of the United States of America when in the territory of Japan.

#### Vote neg

#### Limits- they exponentially multiply the size of the topic- justifies the entire nukes topic, space weapons, missile defense, EMP, ASATs, bioweapons—even hypothetical future weapons that may or may not be invented like AI or chemical soldiers- draw a line early in the year to protect neg research

#### Ground—avoid links to “hostilities” because no US personnel are in danger

### off

#### The Executive Branch of the United States should cease humanitarian interventions and cease using justifications of humanitarian intervention for the introduction of armed forces into hostilities. The Executive Branch should initiate a public relations campaign to encourage dialogue and discussion over the gendered implications for using humanitarian justifications for military interventions.

#### All 2ac solvency deficits are solved by Obama publicly renouncing his legal authority - the distinction is key

Posner, 9/3 (eric,Eric Professor of Law at Chicago Law School. An editor of The Journal of Legal Studies, he has also published numerous articles and books on issues in international law, Slate Magazine, 9/3/13, http://www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html)

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever.¶ It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”¶ Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.

### off

#### TPA will pass – Obama push key

Wingfield 1/6/14 [Brian, “Business Groups Back Obama on Trade Amid Historic Debate”, Bloomberg Businessweek, <http://www.businessweek.com/news/2014-01-06/business-groups-back-obama-on-trade-as-historic-debate-begins>]

Some of the largest U.S. business groups are lining up behind President Barack Obama to pressure Congress to clear the way for a pair of trade deals that could set rules for more than half the world’s economy.¶ The agreements, with 11 Pacific Rim countries and the 28-nation European Union may also help Obama deliver on his promise to double U.S. exports above 2009 levels by the end of the year, an increasingly distant goal.¶ Standing in his way: almost 200 Democrats and Republicans who say they won’t yield to him the “fast track” authority to hammer out agreements without congressional amendments.¶ “Fast-track authority is an undemocratic seizure of power that usurps our ability to represent the American people,” Representative Louise Slaughter, a New York Democrat, said. “There’s absolutely no reason why it should be renewed.”¶ In the coming days, Senate Finance Committee leaders Max Baucus, a Montana Democrat, Orrin Hatch, a Utah Republican, and House Ways and Means Committee Chairman Dave Camp, a Michigan Republican, plan to introduce a bill to give Obama fast-track authority. The ensuing debate may produce one of the most contentious discussions of trade policy on Capitol Hill since the passage of the North American Free Trade Agreement 20 years ago.¶ Roundtable, Chamber¶ The Trade Benefits America Coalition, led by groups including the Business Roundtable, the U.S. Chamber of Commerce, the American Farm Bureau Federation and the National Association of Manufacturers, is backing Obama. The coalition -- whose approximately 160 members include Boeing Co. (BA:US), MetLife Inc. (MET:US), Pfizer Inc. and Wal-Mart Stores Inc. (WMT:US) -- has ramped up its lobbying campaign in recent months.¶ The coalition has held hundreds of meetings with federal, state and local officials to counter growing opposition to the administration’s agenda. They’ve run ads in influential papers and started a website to tout what they see as the benefits of trade-promotion authority, or TPA, as fast-track is formally known.¶ The group says the authority is constitutional and it doesn’t cede power to the president.¶ “Updated TPA legislation would provide clear guidance on Congress’ requirement for trade agreements,” Doug Oberhelman, chief executive officer of Caterpillar Inc. (CAT:US) of Peoria, Illinois, wrote in an opinion piece running in McClatchy Co. (MNI:US) newspapers. Oberhelman is also chairman of the Business Roundtable’s international engagement committee.¶ Trade Representative¶ The lobbying campaign runs parallel to a White House push for trade-promotion authority. U.S. Trade Representative Michael Froman, who is seeking to complete the Pacific-region accord this year, recently stepped up his calls for a TPA bill. Commerce Secretary Penny Pritzker made it a prominent part of her agenda for the agency that she unveiled in November.¶ Trade-promotion authority is “a congressional prerogative,” and we want to work closely with Congress to get a broad, bipartisan bill, Froman said today in an interview on Bloomberg Television’s “In the Loop with Betty Liu.” Lawmakers are “very much aware of what it is we’re negotiating,” adding that his office has had more than 1,100 meetings about the Pacific-region deal on Capitol Hill.¶ While fast-track authority allows only for an up-or-down vote on the accords, it also lets lawmakers set parameters for the agreements on issues including labor and environmental protections, digital commerce and agricultural trade.¶ Expired Authority¶ Congress last voted on a fast-track bill in 2002, and the authority expired in 2007. Supporters say it can help the U.S. strike better trade deals by assuring other nations that the accords won’t be altered at a later date. Obama asked Congress for the special privilege during a speech in Chattanooga, Tennessee on July 30. Lawmakers have been working since early last year on a bill.¶ Critics and opponents say they expect a high-profile battle on Capitol Hill this month.¶ “This is truly an historic moment in international trade policy,” said Mike Dolan a lobbyist for the International Brotherhood of Teamsters, a group that wants more protections for workers. “It’s the last time we’re going to be talking about the model” for future trade accords, he said.¶ “If it comes back looking and smelling like the old fast-track, we’d be opposed to it,” Leo Gerard, president of the United Steelworkers of America union, said in an interview. Dolan said the Teamsters would be in “lockstep solidarity” against a version of the bill that waters down U.S. regulations.¶ American Jobs¶ Opponents say a new bill must show that trade deals will create jobs for Americans and include protections for workers whose employment may be affected by such matters as outsourcing, Internet trade, currency manipulation and government competition.¶ “Flawed free-trade agreements like NAFTA have destroyed American manufacturers and American jobs for more than 20 years,” Slaughter said on a Dec. 10 conference call with reporters. “We have to stop that from happening again.”¶ In November, 151 of the House’s 201 Democrats wrote to Obama with the same complaint. A day earlier, 23 conservative Republicans said they wouldn’t approve legislation that would cede congressional powers to the president. Fourteen other lawmakers of both parties have also expressed concerns.¶ Lawmaker Attention¶ “There won’t be fast track granted if it doesn’t change,” Representative Rosa DeLauro, a Connecticut Democrat who was one of the leaders behind the House letter, said today in a telephone interview. Issues including renewal of long-term unemployment benefits, which expired last week, will compete with fast-track legislation for lawmakers’ attention in the weeks ahead, she said.¶ With the debate about to unfold this month, advocates of the measure and the Pacific trade agreement are starting to push back against opposition.¶ “On my side of the aisle, Republicans need to resist the temptation to buy the misleading narrative that TPA would simply give away the store to the Obama administration,” Senator Jeff Flake, an Arizona Republican who supports fast track, said during a Dec. 18 speech in Washington.¶ Several elements could prolong the discussion. Representative Sander Levin of Michigan, the top Democrat on the House Ways and Means Committee, has said he wants a stronger role for Congress and measures to prevent currency manipulation. Baucus, the Senate’s top trade official and co-author of the trade legislation, is also Obama’s nominee to be ambassador to China and may leave Congress in the coming months.¶ Senate’s Agenda¶ Lori Wallach, director of the Global Trade Watch program at Public Citizen, a Washington-based consumer group, said the outlook for congressional approval of fast-track legislation is uncertain ahead of November elections, and Senate Majority Leader Harry Reid probably won’t act before a House vote.¶ “Given prospects in the House for passage look so dim, I can’t imagine leader Reid would bring up a vote on something this unpopular given the many dicey Senate elections coming unless and until the House votes,” she said in a phone interview.¶ Reid’s office didn’t respond to a request for comment.¶ Ed Gresser, a former adviser in the U.S. Trade Representative’s office under President Bill Clinton, said a similar number of Republicans opposed giving the White House fast-track negotiating authority in 2002, and that Obama will be able to persuade enough Democrats to support a new bill.¶ “It actually is quite do-able for the administration,” he said in a phone interview.

**Plan guts Obama’s political capital**

**Seeking Alpha 9-10**, 9-10-2013, “Syria Could Upend Debt Ceiling Fight,” http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. **This defeat would be to**tally **unprecedented as a President has never lost a military authorization vote** in American history. **To forbid the Commander-in-Chief** of his **primary power renders him** all but **impotent**. At this point, a rebuff from the House is a 67%-75% probability. I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four. While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling. Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. **For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic** spending **issues**. Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand

#### Capital is key—vital to economy

Bryan Riley, senior analyst and Anthony B. Kim, senior policy analyst, “Advancing Trade Freedom: Key Objective of Trade Promotion Authority Renewal,” ISSUE BRIEF n. 3912, Heritage Foundation, 4—16—13, [www.heritage.org/research/reports/2013/04/advancing-trade-freedom-key-objective-of-trade-promotion-authority-renewal](http://www.heritage.org/research/reports/2013/04/advancing-trade-freedom-key-objective-of-trade-promotion-authority-renewal)

Trade Promotion Authority (TPA) has been a critical tool for advancing free trade and spreading its benefits to a greater number of Americans. TPA, also known as “fast track” authority, is the legislative power Congress grants to the President to negotiate reciprocal trade agreements. Provided the President observes certain statutory obligations under TPA, Congress agrees to consider implementing those trade pacts without amending them.¶ More than a decade has passed since TPA was last renewed in 2002, and its authority expired in 2007. Reinstituting TPA may well be the most important legislative action on trade for both Congress and the President in 2013 given the urgency of restoring America’s credibility in advancing open markets and securing greater benefits of two-way trade for Americans. As the case for timely reinstallation of an effective and practical TPA is stronger than ever, the quest for renewing TPA should be guided by principles that enhance trade freedom, a vital component of America’s economic freedom.¶ Both House Ways and Means Committee chairman David Camp (R–MI) and Senate Finance Committee chairman Max Baucus (D–MT) have announced plans to pursue TPA legislation. However, many lawmakers have correctly pointed out that a proactive push from President Obama is critical, given that trade bills have been a thorny issue for many Democrats in recent years.¶ Historically, it has been common practice, although not formally required, to have the President request that Congress provide renewed TPA. In fact, except for President Obama, every President since Franklin Roosevelt has either requested or received trade negotiating authority.[1]¶ After four years of informing Congress it would seek TPA at “the appropriate time,” early this year the Obama Administration finally indicated its interest in working with Congress to get TPA done. The President’s 2013 trade agenda offered the Administration’s most forward-leaning language yet, specifying that “to facilitate the conclusion, approval, and implementation of market-opening negotiating efforts, we will also work with Congress on Trade Promotion Authority.”[2]¶ In the 2002 Bipartisan Trade Promotion Authority Act, Congress—whose role in formulating U.S. trade policy includes defining trade negotiation objectives—made it clear that¶ [t]he expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity.… Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

**Econ decline causes nuclear war**

**Kerpen ‘8** [National Review Online, October 28, 2008 Phil Kerpen, policy director for Americans for Prosperity From Panic to Depression?, http://article.nationalreview.com/?q=OWQ3ZGYzZTQyZGY4ZWFiZWUxNmYwZTJiNWVkMTIxMmU=]

**It’s important that we avoid all these policy errors** — not just for the sake of our prosperity, but **for our survival. The Great Depression**, after all, **didn’t end until the advent of World War II, the most destructive war in the history of the planet. In a world of nuclear and biological weapons and non-state terrorist organizations that breed on poverty and despair, another global economic breakdown** of such extended duration **would risk armed conflicts on an even greater scale**

### off

**Humanitarian justifications are key to U.S. moral authority and military dominance**

Eric **Bonds**, University of Mary Washington, “Hegemony and Humanitarian Norms: The US Legitimation of Toxic Violence,” American Sociological Association, Volume XIX, Number 1, **2013**, p. 84-85

Certainly, **the U**nited **S**tates **could not shrug off or ignore the emergence of humanitarian norms in its pursuit of hegemony** during the twentieth century. **Hegemony requires**, after all, **that a dominant nation exercise the global “moral leadership” necessary to garner the consent of a¶ critical mass of domestic and international political factions** (Arrighi 2010). Likely **for this reason**, **the U**nited **S**tates **became** the “world **spokesman for liberalism” during its era of hegemony**, promoting the idea of the “rights of the people,” including the notion that they should not be deprived of their most basic rights to life during times of war (Wallerstein 1995: 156). Furthermore, several scholars have argued that **powerful nations work to establish global humanitarian norms as a means of controlling or diminishing the military capacities of weaker nations or insurgent non-state groups**, as in the case of chemical weapons (Price 1997), landmines (Beier 2011), or the small arms trade (Stavrianakis 2011). Hegemony, however, requires more than an economically dominant nation’s ability to exert global cultural leadership; **it also requires the use of violent coercio**n (Arrighi 2010; see also Gramsci 1971).¶ **There are several reasons why military force is particularly important to the U.S. during its era of hegemony**. First and foremost, **the U**nited **S**tates **was called upon to secure “international order,**” including the maintenance of inequitable relationships between nations first forged through colonialism (Wallerstein 2004). Securing “international order” has often meant that the United States has used its military power to open and preserve access to foreign markets and to protect its own military and economic supremacy. It has also used its substantial military power as a threat or through actual belligerence in order to maintain access to valuable natural resources that are necessary for the continuous accumulation of capitalism (Klare 2004; Downey, Bonds, and Clark 2010). In sum, the period of U.**S. hegemony has been one in which the U.S. military was continuously poised to use coercive violence to defend the established world order**, and one in which it was often embroiled in one conflict or another somewhere around the globe.

**That’s crucial to sustainable and effective US hegemony**

**Knowles 9** [Spring, 2009, Robert Knowles is a Acting Assistant Professor, New York University School of Law, “American Hegemony and the Foreign Affairs Constitution”, ARIZONA STATE LAW JOURNAL, 41 Ariz. St. L.J. 87]

**American unipolarity has created a challenge for realists. Unipolarity was thought to be inherently unstable because other nations, seeking to protect their own security**, form alliances to counter-balance the leading state. n322 **But no nation or group of nations has yet attempted to challenge America's military predominance**. n323 Although some realists predict that [\*140] counter-balancing will occur or is already in some ways occurring, n324 William Wohlforth has offered a compelling explanation for why true counter-balancing, in the traditional realist sense, will probably not happen for decades. n325 American unipolarity is unprecedented. n326 First, **the United States is geographically isolated from other potential rivals**, who are located near one another in Eurasia. n327 **This mutes the security threat that the U.S. seems to pose while increasing the threats that potential rivals seem to pose to one another**. n328 Second, **the U.S. far exceeds the capabilities of all other states in every aspect of power** - military, economic, technological, and in terms of what is known as "soft power." **This advantage "is larger now than any analogous gap in the history of the modern state system."** n329 Third, **unipolarity is entrenched as the status quo** for the first time since the seventeenth century, multiplying free rider problems for potential rivals and rendering less relevant all modern previous experience with balancing. n330 Finally, the potential rivals' possession of nuclear weapons makes the concentration of power in the United States appear less threatening. A war between great powers in today's world is very unlikely. n331 These factors make the current system much more stable, peaceful and durable than the past multi-polar and bipolar systems in which the United States operated for all of its history until 1991. **The lack of balancing means that the U**nited **S**tates, **and by extension the executive branch, faces** much **weaker external constraints on its exercise of power** than in the past. n332 Therefore, **the internal processes of the U.S. matter now more than any other nations' have in history**. n333 And **it is these internal processes**, as much as external developments, **that will determine the durability of American unipolarity. As one realist scholar has argued, the U.S. can best ensure the [\*141] stability of this unipolar order by ensuring that its predominance appears legitimate**. n334 **Hegemonic orders take on hierarchical characteristics**, with the preeminent power having denser political ties with other nations than in a unipolar order. n335 **Stability in hegemonic orders is maintained in part through security guarantees and trade relationships that result in economic specialization** among nations. n336 For example, if Nation X's security is supplied by Hegemon Y, Nation X can de-emphasize military power and focus on economic power. In a hegemonic system, **the preeminent state has "the power to shape the rules of international politics according to its own interests."** n337 **The hegemon**, in return, **provides public goods for the system as a whole**. n338 **The hegemon possesses** not only superior command of military and economic resources but "**soft" power, the ability to guide other states' preferences and interests.** n339 **The durability and stability of hegemonic orders depends on other states' acceptance of the hegemon's role. The hegemon's leadership must be seen as legitimate.** n340 [\*142] **The U**nited **S**tates **qualifies as a global hegemon**. In many ways, **the U.S. acts as a world government**. n341 **It provides public goods for the world**, such as security guarantees, the protection of sea lanes, and support for open markets. n342 After World War II, the U.S. forged a system of military alliances and transnational economic and political institutions - such as the United Nations, NATO, the International Monetary Fund, and the World Bank - that remain in place today. The U.S. provides security for allies such as Japan and Germany by maintaining a strong military presence in Asia and Europe. n343 Because of its overwhelming military might, the U.S. possesses what amounts to a "quasi-monopoly" on the use of force. n344 This prevents other nations from launching wars that would tend to be truly destabilizing. Similarly, **the United States provides a public good through its efforts to combat terrorism** and confront - even through regime change - rogue states. n345 **The U**nited **S**tates also **provides a public good through its promulgation and enforcement of international norms. It exercises a dominant influence on the definition of international law because it is the largest "consumer" of such law and the only nation capable of enforcing it on a global scale.** n346 The U.S. was the primary driver behind the establishment of the United Nations system and the development of contemporary treaties and institutional regimes to effectuate those treaties in both public and private international law. n347

Moreover, **controlling international norms are** [\*143] sometimes **embodied in the U.S. Constitution and domestic law rather than in treaties or customary international law.** For example, **whether terrorist threats will be countered effectively depends "in large part on U.S. law regarding armed conflict, from rules that define the circumstances under which the President can use force to those that define the proper treatment of enemy combatants.**" n348 **These public goods provided by the United States stabilize the system by legitimizing it and decreasing resistance to it.** **The transnational** political and economic **institutions created by the U**nited **S**tates **provide other countries with informal access to policymaking and tend to reduce resistance to American hegemony, encouraging others to "bandwagon"** with the U.S. rather than seek to create alternative centers of power. n349 American hegemony also coincided with the rise of globalization - the increasing integration and standardization of markets and cultures - which tends to stabilize the global system and reduce conflict. n350 **The legitimacy of American hegemony is strengthened and sustained by the democratic and accessible nature of the U.S. government. The American constitutional separation of powers is an international public good. The risk that it will hinder the ability of the U.S. to act swiftly, coherently or decisively** in foreign affairs **is counter-balanced by the benefits it provides in permitting foreigners multiple points of access to the government**. n351 Foreign nations and citizens lobby Congress and executive branch agencies in the State, Treasury, Defense, and Commerce Departments, where foreign policy is made. n352 They use the media to broadcast their point of view in an effort to influence the opinion of decision-makers. n353 Because the United States is a nation of immigrants, many American citizens have a specific interest in the fates of particular countries and form "ethnic lobbies" for the purpose of affecting foreign policy. n354 **The courts,** too, **are accessible to foreign nations and non-citizens. The Alien Tort Statute is emerging as an** [\*144] **important vehicle for adjudicating tort claims among non-citizens in U.S. courts.** n355 Empires are more complex than unipolar or hegemonic systems. Empires consist of a "rimless-hub-and-spoke structure," with an imperial core - the preeminent state - ruling the periphery through intermediaries. n356 The core institutionalizes its control through distinct, asymmetrical bargains (heterogeneous contracting) with each part of the periphery. n357 Ties among peripheries (the spokes) are thin, creating firewalls against the spread of resistance to imperial rule from one part of the empire to the other. n358 The success of imperial governance depends on the lack of a "rim." n359 Stability in imperial orders is maintained through "divide and rule," preventing the formation of countervailing alliances in the periphery by exploiting differences among potential challengers. n360 Divide-and-rule strategies include using resources from one part of the empire against challengers in another part and multi-vocal communication - legitimating imperial rule by signaling "different identities ... to different audiences." n361 Although the U.S. has often been labeled an empire, the term applies only in limited respects and in certain situations. Many foreign relations scholars question the comparison. n362 However, the U.S. does exercise informal imperial rule when it has routine and consistent influence over the foreign policies of other nations, who risk losing "crucial military, economic, or political support" if they refuse to comply. n363 The "Status of Force Agreements" ("SOFAs") that govern legal rights and responsibilities of U.S. military personnel and others on U.S. bases throughout the world are typically one-sided. n364 And the U.S. occupations in Iraq and Afghanistan had a strong imperial dynamic because those regimes depended on American support. n365 [\*145] But the management of empire is increasingly difficult in the era of globalization. Heterogeneous contracting and divide-and-rule strategies tend to fail when peripheries can communicate with one another. The U.S. is less able control "the flow of information ... about its bargains and activities around the world." n366 In late 2008, negotiations on the Status of Force Agreement between the U.S. and Iraq were the subject of intense media scrutiny and became an issue in the presidential campaign. n367 Another classic imperial tactic - the use of brutal, overwhelming force to eliminate resistance to imperial rule - is also unlikely to be effective today. The success of counterinsurgency operations depends on winning a battle of ideas, and collateral damage is used by violent extremists, through the Internet and satellite media, to "create widespread sympathy for their cause." n368 The abuses at Abu Ghraib, once public, harmed America's "brand" and diminished support for U.S. policy abroad. n369 Imperial rule, like hegemony, depends on maintaining legitimacy.B. Constructing a Hegemonic Model International relations scholars are still struggling to define the current era. The U.S.-led international order is unipolar, hegemonic, and, in some instances, imperial. In any event, this order diverges from traditional realist assumptions in important respects. It is unipolar, but stable. It is more hierarchical. The U.S. is not the same as other states; it performs unique functions in the world and has a government open and accessible to foreigners. And the stability and legitimacy of the system depends more on successful functioning of the U.S. government as a whole than it does on balancing alliances crafted by elite statesmen practicing realpolitik. "World power politics are shaped primarily not by the structure created by interstate anarchy but by the foreign policy developed in Washington." n370 These differences require a new model for assessing the institutional competences of the executive and judicial branches in foreign affairs. [\*146] One approach would be to adapt an institutional competence model using insights from a major alternative theory of international relations - liberalism. Liberal IR theory generally holds that internal characteristics of states - in particular, the form of government - dictate states' behavior, and that democracies do not go to war against one another. n371 Liberalists also regard economic interdependence and international institutions as important for maintaining peace and stability in the world. n372 Dean Anne-Marie Slaughter has proposed a binary model that distinguishes between liberal, democratic states and non-democratic states. n373 Because domestic and foreign issues are "most convergent" among liberal democracies, Slaughter reasons, the courts should decide issues concerning the scope of the political branches' powers. n374 With respect to non-liberal states, the position of the U.S. is more "realist," and courts should deploy a high level of deference. n375 One strength of this binary approach is that it would tend to reduce the uncertainty in foreign affairs adjudication. Professor Nzelibe has observed that it would put courts in the difficult position of determining which countries are liberal democracies. n376 But even if courts are capable of making these determinations, they would still face the same dilemmas adjudicating controversies regarding non-liberal states. Where is the appropriate boundary between foreign affairs and domestic matters? How much discretion should be afforded the executive when individual rights and accountability values are at stake? To resolve these dilemmas, an institutional competence model should be applicable to foreign affairs adjudication across the board. In constructing a new realist model, it is worth recalling that the functional justifications for special deference are aimed at addressing problems of a particular sort of role effectiveness - which allocation of power among the branches will best achieve general governmental effectiveness in foreign affairs. In the twenty-first century, **America's global role has changed, and the best means of achieving effectiveness in foreign affairs have changed as well. The international realm remains highly political** - if not as much as in the past - but **it is American politics that matters most.** If the U.S. is truly an empire - [\*147] and in some respects it is - the problems of imperial management will be far different from the problems of managing relations with one other great power or many great powers. Similarly, **the management of hegemony or unipolarity requires a different set of competences.** Although American predominance is recognized as a salient fact, there is no consensus among realists about the precise nature of the current international order. n377 The hegemonic model I offer here adopts common insights from the three IR frameworks - unipolar, hegemonic, and imperial - described above. First, the "hybrid" hegemonic model assumes that the goal of U.S. foreign affairs should be the preservation of American hegemony, which is more stable, more peaceful, and better for America's security and prosperity, than the alternatives. **If the United States were to withdraw from its global leadership role, no other nation would be capable of taking its place. n378 The result would be radical instability and a greater risk of major war**. n379 In addition, the United States would no longer benefit from the public goods it had formerly produced; as the largest consumer, it would suffer the most. Second, the hegemonic model assumes that **American hegemony is unusually stable and durable**. n380 As noted above, **other nations have many incentives to continue to tolerate the current order**. n381 And although other nations or groups of nations - China, the European Union, and India are often mentioned - may eventually overtake the United States in certain areas, such as manufacturing, **the U.S. will remain dominant in most measures of capability for decades.** According to 2007 estimates, the U.S. economy was projected to be twice the size of China's in 2025. n382 **The U.S. accounted for half of the world's military spending in 2007 and holds enormous advantages in defense technology that far outstrip would-be competitors. n383 Predictions of American decline are not new, and they have thus far proved premature.** n384 [\*148] Third, **the hegemonic model assumes that preservation of American hegemony depends not just on power, but legitimacy. n385 All three IR frameworks for describing predominant states - although unipolarity less than hegemony or empire - suggest that legitimacy is crucial to the stability and durability of the system.** **Although empires and predominant states in unipolar systems can conceivably maintain their position through the use of force, this is much more likely to exhaust the resources of the predominant state and to lead to counter-balancing or the loss of control. n386 Legitimacy as a method of maintaining predominance is far more efficient.** The hegemonic model generally values courts' institutional competences more than the anarchic realist model. **The courts' strengths in offering a stable interpretation of the law, relative insulation from political pressure, and power to bestow legitimacy are important for realizing the functional constitutional goal of effective U.S. foreign policy.** This means that courts' treatment of deference in foreign affairs will, in most respects, resemble its treatment of domestic affairs. Given the amorphous quality of foreign affairs deference, this "domestication" reduces uncertainty. **The increasing boundary problems caused by the proliferation of treaties and the infiltration of domestic law by foreign affairs issues are lessened by reducing the deference gap**. And **the dilemma caused by the need to weigh different functional considerations** - liberty, accountability, and effectiveness - **against one another is made less intractable because it becomes part of the same project that the courts constantly grapple with in adjudicating domestic disputes.**

**Hegemony solves conflicts that cause extinction**

Thomas P.M. **Barnett,** chief analyst, Wikistrat, “The New Rules: Leadership Fatigue Puts U.S. and Globalization, at Crossroads,” WORLD POLITICS REVIEW, 3—7—**11**, www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads

Events in Libya are a further reminder for **Americans** that we **stand at a crossroads in our continuing evolution as the** world's sole full-service **superpower.** Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: **As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics** that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable **there would now be no** identifiable **human civilization left, once nuclear weapons entered the killing equation. But the world did not keep sliding down** that path of **perpetual war**. Instead**, America** stepped up and **changed everything by ushering in** our now-perpetual **great-power peace. We introduced** the international liberal trade order known as **globalization** and played loyal Leviathan over its spread. **What resulted was the collapse of empires, an explosion of** **democracy**, the **persistent spread of** **human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts.** That is what American "hubris" actually delivgered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these **calculations suggest a 90 percent absolute drop and a 99 percent relative drop in deaths due to war**. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, we would do well to keep U.S. power, in all of its forms, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

**Two-thousand years of history and robust statistical analysis prove**

William **Wohlforth 8** Daniel Webster Professor of Government, Dartmouth. BA in IR, MA in IR and MPhil and PhD in pol sci, Yale, Unipolarity, Status Competition, and Great Power War, October 2008, World Politics Vol. 61, Iss. 1; pg. 28, 31 pgs, Proquest

Despite increasingly compelling findings concerning the importance of status seeking in human behavior, research on its connection to war waned some three decades ago.38 Yet **empirical studies of the relationship between** both systemic and dyadic **capabilities distributions and war have continued to cumulate. If the relationships implied by the status theory run afoul** of well-established patterns or general historical findings, **then there is little reason to continue investigating them. The clearest empirical implication** of the theory **is that** status **competition is unlikely to cause great power military conflict in unipolar systems. If status competition is an important contributory cause of great power war, then,** ceteris paribus, **unipolar systems should be markedly less war-prone** than bipolar or multipolar systems. And this appears to be the case. As Daniel Geller notes **in a review of the empirical literature: "The only polar structure that appears to influence conflict probability is unipolarity."**39 In addition, a larger number of studies at the dyadic level support the related expectation that narrow capabilities gaps and ambiguous or unstable capabilities hierarchies increase the probability of war.40 These studies are based entirely on post-sixteenth-century European history, and most are limited to the post-1815 period covered by the standard data sets. Though the systems coded as unipolar, near-unipolar, and hegemonic are all marked by a high concentration of capabilities in a single state, these studies operationalize unipolarity in a variety of ways, often very differently from the definition adopted here. **An ongoing collaborative project looking at ancient interstate systems over** the course of **two thousand years suggests** **that** **historical systems** **that come closest to** the definition of unipolarity used here **exhibit precisely the** **behavioral** **properties implied by the theory**. 41 As David C. Kang's research shows, the **East Asian system between 1300 and 1900 was** an unusually stratified **unipolar** structure, **with** an economic and militarily dominant **China interacting with** a small number of geographically proximate, clearly weaker East Asian **states**.42 Status politics existed, but actors were channeled by elaborate cultural understandings and interstate practices into clearly recognized ranks. **Warfare was exceedingly rare, and the major outbreaks occurred precisely when the theory would predict: when China's capabilities waned**, reducing the clarity of the underlying material hierarchy and increasing status dissonance for lesser powers. Much more research is needed, but initial exploration of other arguably unipolar systems-for example, Rome, Assyria, the Amarna system-appears consistent with the hypothesis.43 Status Competition and Causal Mechanisms **Both theory and evidence demonstrate convincingly that competition for status is a driver of human behavior, and social** identity **theory** and related literatures **suggest** the **conditions under which it might come to the fore in great power relations.** **Both the systemic and dyadic findings presented in large-N studies are broadly consistent with the theory**, but they are also consistent with power transition and other rationalist theories of hegemonic war.

### Advantage

#### Obama will use self-defense- causes global war and turns cred/norms

Barnes 12 – JD Candidate @ Boston University School of Law (13) & MA Candidate in Law and Diplomacy @ The Fletcher School of Law and Diplomacy at Tufts University (13) [[Barnes, Beau D.](http://www.heinonline.org.proxy.library.emory.edu/HOL/LuceneSearch?specialcollection=&terms=creator%3A%22Barnes,%20Beau%20D.%22&yearlo=&yearhi=&subject=ANY&journal=ALL&sortby=relevance&collection=journals&searchtype=advanced&submit=Search&base=js&all=true&solr=true), “Reauthorizing the War on Terror: The Legal and Policy Implications of the AUMF's Coming Obsolescence,” Military Law Review, Vol. 211, 211 Mil. L. Rev. 57 (2012) pp. 57-114

2. Effect on the International Law of Self-Defense

A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of self defense- the jus ad bellum.142 Finding sufficient legal authority for the United States's ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress's role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert "self-defense against a continuing threat" to target and detain terrorists worldwide, it will almost always be able to find such a threat. 143 Indeed, the Obama Administration's broad understanding of the concept of "imminence" illustrates the danger of allowing the executive to rely on a self-defense authorization alone.144 This approach also would inevitably lead to dangerous "slippery slopes." Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of "imminence," 45 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the Obama Administration has disclaimed this manner of broad authority because the AUMF "does not authorize military force against anyone the Executive labels a 'terrorist,' 1 46 relying solely on the international law of self defense would likely lead to precisely such a result.

The slippery slope problem, however, is not just limited to the United States's military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration's "expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . ... 147 Indeed, "[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos." 48

Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration's national security policy, sapping U.S. credibility. The Administration's National Security Strategy emphasizes U.S. "moral leadership," basing its approach to U.S. security in large part on "pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests." 49 Defense Department General Counsel Jeh Johnson has argued that "[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge."5 o Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States "must not make [legal authority] up to suit the moment.""' The Obama Administration's global counterterrorism strategy is to "adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy" of "turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation."'12

Widely accepted legal arguments also facilitate cooperation from U.S. allies, especially from the United States' European allies, who have been wary of expansive U.S. legal interpretations. Moreover, U.S. strategy vis-a-vis China focuses on binding that nation to international norms as it gains power in East Asia.154 The United States is an international "standard-bearer" that "sets norms that are mimicked by others,"155 and the Obama Administration acknowledges that its drone strikes act in a quasi-precedential fashion.156 Risking the obsolescence of the AUMF would force the United States into an "aggressive interpretation" of international legal authority, not just discrediting its own rationale, but facilitating that rationale's destabilizing adoption by nations around the world.'

United States efforts to entrench stabilizing global norms and oppose destabilizing international legal interpretations-a core tenet of U.S. foreign and national security policyl59-would undoubtedly be hampered by continued reliance on self defense under the jus ad bellum to authorize military operations against international terrorists. Given the presumption that the United States's armed conflict with these terrorists will continue in its current form for at least the near term, ongoing authorization at the congressional level is a far better choice than continued reliance on the jus ad bellum. Congress should reauthorize the use of force in a manner tailored to the global conflict the United States is fighting today. Otherwise, the United States will be forced to continue to rely on a statute anchored only to the continued presence of those responsible for 9/11, a group that was small in 2001 and, due to the continued successful targeting of Al Qaeda members, is rapidly approaching zero. Pg. 94-98

#### We’ll shift to violent tech

#### A. cruise missiles

Byman 13 (Daniel L. Byman Research Director, Saban Center for Middle East Policy¶ Senior Fellow, Foreign Policy, Saban Center for Middle East Policy “Why Drones Work: The Case for Washington's Weapon of Choice,” http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman)

But even the most unfavorable estimates of drone casualties reveal that the ratio of civilian to militant deaths—about one to three, according to the Bureau of Investigative Journalism—is lower than it would be for other forms of strikes. Bombings by F-16s or Tomahawk cruise missile salvos, for example, pack a much more deadly payload. In December 2009, the United States fired Tomahawks at a suspected terrorist training camp in Yemen, and over 30 people were killed in the blast, most of them women and children. At the time, the Yemeni regime refused to allow the use of drones, but had this not been the case, a drone’s real-time surveillance would probably have spotted the large number of women and children, and the attack would have been aborted. Even if the strike had gone forward for some reason, the drone’s far smaller warhead would have killed fewer innocents. Civilian deaths are tragic and pose political problems. But the data show that drones are more discriminate than other types of force.¶ FOREIGN FRIENDS¶ It is also telling that drones have earned the backing, albeit secret, of foreign governments. In order to maintain popular support, politicians in Pakistan and Yemen routinely rail against the U.S. drone campaign. In reality, however, the governments of both countries have supported it. During the Bush and Obama administrations, Pakistan has even periodically hosted U.S. drone facilities and has been told about strikes in advance. Pervez Musharraf, president of Pakistan until 2008, was not worried about the drone program’s negative publicity: “In Pakistan, things fall out of the sky all the time,” he reportedly remarked. Yemen’s former president, Ali Abdullah Saleh, also at times allowed drone strikes in his country and even covered for them by telling the public that they were conducted by the Yemeni air force. When the United States’ involvement was leaked in 2002, however, relations between the two countries soured. Still, Saleh later let the drone program resume in Yemen, and his replacement, Abdu Rabbu Mansour Hadi, has publicly praised drones, saying that “they pinpoint the target and have zero margin of error, if you know what target you’re aiming at.”¶ As officials in both Pakistan and Yemen realize, U.S. drone strikes help their governments by targeting common enemies. A memo released by the antisecrecy website WikiLeaks revealed that Pakistan’s army chief, Ashfaq Parvez kayani, privately asked U.S. military leaders in 2008 for “continuous Predator coverage” over antigovernment militants, and the journalist Mark Mazzetti has reported that the United States has conducted “goodwill kills” against Pakistani militants who tshreatened Pakistan far more than the United States. Thus, in private, Pakistan supports the drone program. As then Prime Minister Yousaf Raza Gilani told Anne Patterson, then the U.S. ambassador to Pakistan, in 2008, “We’ll protest [against the drone program] in the National Assembly and then ignore it.”¶ Still, Pakistan is reluctant to make its approval public. First of all, the country’s inability to fight terrorists on its own soil is a humiliation for Pakistan’s politically powerful armed forces and intelligence service. In addition, although drones kill some of the government’s enemies, they have also targeted pro-government groups that are hostile to the United States, such as the Haqqani network and the Taliban, which Pakistan has supported since its birth in the early 1990s. Even more important, the Pakistani public is vehemently opposed to U.S. drone strikes.¶ A 2012 poll found that 74 percent of Pakistanis viewed the United States as their enemy, likely in part because of the ongoing drone campaign. Similarly, in Yemen, as the scholar Gregory Johnsen has pointed out, drone strikes can win the enmity of entire tribes. This has led critics to argue that the drone program is shortsighted: that it kills today’s enemies but creates tomorrow’s in the process.¶ Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by anti-drone organizations, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as seal team raids or cruise missile strikes, would make the United States more popular.

#### b. Drones

**Singh & Wittes 12** (Ritika Singh – Research Assistant, Governance Studies, AND Benjamin Wittes – Senior Fellow, Governance Studies, “Drones Are a Challenge — and an Opportunity”, Jan 11, The Cato Institute, <http://www.brookings.edu/research/opinions/2012/01/11-drones-wittes>, CMR)

Indeed, Cortright may argue that “terrorism is more a political and law enforcement challenge than a threat that can be addressed by military means,” but it is worth remembering that the opposite of targeted killing is not usually law enforcement. It is often less-targeted—that is, more indiscriminate—killing. The important flip side to Cortright’s anxiety that drones will lower our inhibition to go to war is that drones can also limit the scope and scale of military action. The United States is not going to take a hands-off approach to states like Pakistan and Yemen, where law enforcement is not a feasible option. Drone warfare permits a highly calibrated military response to situations in which the alternative may involve not lesser but far greater uses of military violence. This is a good trade. Conversely, drones also allow militaries to contemplate certain humanitarian interventions where they might never contemplate risking actual forces; consider whether the recent NATO Libyan intervention—which probably saved a considerable number of lives—would have been politically possible had U.S. forces been seriously at risk.¶ In other words, while the rise of drone warfare has changed the face of American counterterrorism efforts and promises far greater change in years to come, this does not present the simple and terrible moral equation that Cortright describes. What began as a surveillance tool that could, on occasion, deliver lethal force, has evolved in a short space of time into a principal means of following enemy forces onto territory in which the United States is reluctant to put large numbers of boots on the ground—and striking at them there in a limited fashion that protects innocent civilians to an unprecedented level.¶ The logic of these weapons is so overpowering, both as a means of conducting surveillance and as a means of striking at enemy targets, that their growth as an element of U.S. force will resist moral hand-wringing of a sort that, if taken at face value, would lead to greater uses of force, civilian death, and risk to U.S. forces.

**Everything is getting better**

**Ridley**, visiting professor at Cold Spring Harbor Laboratory, former science editor of *The Economist*, and award-winning science writer, **10** (Matt, *The Rational Optimist*, pg. 13-15)

If my fictional family is not to your taste, perhaps you prefer statistics. **Since 1800**, **the population of the world has multiplied six times**, **yet average life expectancy has more than doubled and real income has risen more than nine times**. Taking a shorter perspective, **in 2005**, **compared with 1955**, **the average human being on Planet Earth earned nearly three times as much money** (corrected for inflation), **ate one-third more calories of food**, **buried one-third as many of her children and could expect to live one-third longer**. **She was less likely to die as a result of war**, **murder**, **childbirth**, **accidents**, **tornadoes**, **flooding**, **famine**, **whooping cough**, **tuberculosis**, **malaria**, **diphtheria**, **typhus**, **typhoid**, **measles**, **smallpox**, **scurvy or polio**. **She was less likely**, at any given age, **to get cancer**, **heart disease or stroke**. **She was more likely to be literate and to have finished school**. **She was more likely to own a telephone**, **a flush toilet**, **a refrigerator and a bicycle**. **All this during a half-century when the world population has more than doubled**, **so that far from being rationed by population pressure**, **the goods and services available to the people of the world have expanded**. It is, by any standard, an astonishing human achievement. **Averages conceal a lot**. **But even if you break down the world into bits**, **it is hard to find any region that was worse off in 2005 than it was in 1955**. Over that half-century, real income per head ended a little lower in only six countries (Afghanistan, Haiti, Congo, Liberia, Sierra Leone and Somalia), life expectancy in three (Russia, Swaziland and Zimbabwe), and infant survival in none. In the rest they have rocketed upward. Africa’s rate of improvement has been distressingly slow and patchy compared with the rest of the world, and many southern African countries saw life expectancy plunge in the 1990s as the AIDS epidemic took hold (before recovering in recent years). There were also moments in the half-century when you could have caught countries in episodes of dreadful deterioration of living standards or life chances – China in the 1960s, Cambodia in the 1970s, Ethiopia in the 1980s, Rwanda in the 1990s, Congo in the 2000s, North Korea throughout. Argentina had a disappointingly stagnant twentieth century. But **overall**, **after fifty years**, **the outcome for the world is** remarkably, astonishingly, **dramatically positive**. The average South Korean lives twenty-six more years and earns fifteen times as much income each year as he did in 1955 (and earns fifteen times as much as his North Korean counter part). **The average Mexican lives longer now than the average Briton did in 1955**. **The average Botswanan earns more than the average Finn did in 1955**. **Infant mortality is lower today in Nepal than it was in Italy in 1951**. **The proportion of Vietnamese living on less than $2 a day has dropped from 90 per cent to 30 per cent in twenty years**. **The rich have got richer**, **but the poor have done even better**. **The poor in the developing world grew their consumption twice as fast as the world as a whole between 1980 and 2000**. The Chinese are ten times as rich, one-third as fecund and twenty-eight years longer-lived than they were fifty years ago. Even Nigerians are twice as rich, 25 per cent less fecund and nine years longer-lived than they were in 1955. **Despite a doubling of the world population**, even **the raw number of people living in absolute poverty** (defined as less than a 1985 dollar a day) **has fallen since the 1950s**. **The percentage living in such absolute poverty has dropped by more than half** – to less than 18 per cent. **That number is**, of course, **still** all **too** horribly **high**, **but** the trend is hardly a cause for despair: **at the current rate of decline**, **it would hit zero around 2035** – though it probably won’t. The United Nations estimates that poverty was reduced more in the last fifty years than in the previous 500.

**Patriarchy Doesn’t Cause War**

**Patriarchy doesn’t cause war—their evidence can’t explain variations in the outbreak of conflict.**

Jack S. **Levy**, Governors' Professor of Political Science at Rutgers University, **1998** (“The Causes Of War And The Conditions Of Peace,” *Annual Review of Political Science*, Volume 1, June, Available Online to Subscribing Institutions via Annual Reviews Full Text)

Another exception to the focus on variations in war and peace can be found in some feminist theorizing about the outbreak of war, although **most feminist work on war focuses on the consequences of war**, particularly for women, **rather than on the outbreak of war** (Elshtain 1987, Enloe 1990, Peterson 1992, Tickner 1992, Sylvester 1994). The argument is that the gendered nature of states, cultures, and the world system contributes to the persistence of war in world politics. This might provide an alternative (or supplement) to anarchy as an answer to the first question of why violence and war repeatedly occur in international politics, although **the fact that peace is more common than war makes it difficult to argue that patriarchy** (or anarchy) **causes war. Theories of patriarchy might** also **help answer the** second **question of variations in war and peace**, **if they identified differences in the patriarchal structures and gender relations in different international and domestic political systems in different historical contexts**, **and if they incorporated these differences into empirically testable hypotheses about the outbreak of war**. This is a promising research agenda, and one that has engaged some anthropologists. **Most current feminist thinking in political science about the outbreak of war, however, treats gendered systems and patriarchal structures** in the same way that neorealists treat anarchy—**as a constant**—**and consequently it cannot explain variations in war and peace**.

**Multiplicity of factors create and permit gendered violence – no one root cause.**

**United Nations Entity for Gendered Equality and the Empowerment of Women 13** (“Ending Violence Against Women and Girls: Programming Essentials,” <http://www.endvawnow.org/en/articles/300-causes-protective-and-risk-factors-.html>, June)

Gender inequality and discrimination are root causes of violence against women, influenced by the historical and structural power imbalances between women and men which exist in varying degrees across all communities in the world.

Violence against women and girls is related to their lack of power and control, as well as to the social norms that prescribe men and women’s roles in society and condone abuse. Inequalities between men and women cut across public and private spheres of life, and across social, economic, cultural, and political rights; and are manifested in restrictions and limitations on women’s freedoms, choices and opportunities. These inequalities can increase women’s and girls’ risks of abuse,

violent relationships and exploitation, for example, due to economic dependency and limited survival and income-earning options, or discrimination under the law as it relates to marriage, divorce, and child custody rights.

Violence against women and girls is not only a consequence of gender inequality, but reinforces women’s low status in society and the multiple disparities between women and men. (UN General Assembly, 2006)

A variety of factors at the individual, relationship, community and society (including the institutional/state) levels intersect to increase the risk of violence for women and girls. These factors, represented in the [ecological model](http://www.endvawnow.org/en/articles/310-operating-within-the-ecological-model-.html), include:

* witnessing or experiencing abuse as a child (associated with future perpetration of violence for  boys and experiencing violence for girls);
* substance (including alcohol) abuse (associated with increased incidences of violence)
* women’s membership in marginalized or excluded groups;
* low levels of education (for boys associated with perpetrating violence in the future and for girls, experiencing violence);
* limited economic opportunities (an aggravating factor for unemployed or underemployed men associated with perpetrating violence; and as a risk factor for women and girls, including of domestic abuse, child and forced marriage, and sexual exploitation and trafficking);
* the presence of economic, educational and employment disparities between men and women in an intimate relationship;
* conflict and tension within an intimate partner relationship or marriage;
* women’s insecure access to and control over property and land rights;
* male control over decision-making and assets;
* attitudes and practices that reinforce female subordination and tolerate male violence (e.g. dowry,  bride price, child marriage);
* lack of safe spaces for women and girls, which can be physical or virtual meeting spaces that allow free expression and communication; a place to develop friendships and social networks, engage with mentors and seek advice from a supportive  environment.
* normalized use of violence within the family or society to address conflict;
* a limited legislative and policy framework for preventing and responding to violence;
* lack of punishment (impunity) for perpetrators of violence; and,
* low levels of awareness among service providers, law enforcement and judicial actors. (Bott, et al., 2005;

Humanitarian intervention doesn’t make violence worse

Ryan **Goodman 2006** Humanitarian Intervention and Pretexts for War, International Law Workshop, International Legal Studies Program, UC Berkeley, The American Journal of International Law <http://www.law.harvard.edu/faculty/rgoodman/pdfs/RGoodmanHumanitarianInterventionPretextsforWar.pdf>

The legal status of humanitarian intervention poses a profound challenge to the future of global order.1 The central question is easy to formulate but notoriously difficult to answer: **Should international law permit states to intervene militarily to stop a genocide** or comparable atrocity without Security Council authorization? That question has acquired even greater importance in the wake of military interventions in Kosovo and Iraq and nonintervention in the Sudan." Concerted deliberation on these issues, however, has reached an impasse. **A key obstacle to legalizing unilateral humanitarian intervention (UHI) is the concent that states would use the pretext of humanitarian intervention to wage wars for ulterior motives**. In this Article. I argue that **the opposite is true**. **Drawing on recent empirical studies. I contend that legalizing UHI should discourage wars with ulterior motives**, and I discuss changes to international legal institutions that could bolster that effect.

The key problem—**that states would exploit a humanitarian exception to justify aggressive or expansionist wars**—**has long dominated academic and governmental debate**. Dating back to the earliest treatises in international law. proponents of legalizing humanitarian intervention have struggled with the objection that their proposals would be abused as a pretext for war. **The proponents were most influential in the late nineteenth century**, a period in which international law permitted states to wage war on many and varied grounds. **Today, however, the proponents have essentially lost the debate**. Over the past few decades, **leading public international law scholars**—including Richard Bilder. Iain Brownlie. Tom Franck. Louis Henkin. Oscar Schachter. And Bruno Simma "—**have powerfully argued against legalizing UHI specifically on the basis of the pretext problem**.1 Governments have also rejected legalizing UHI out of this concent. And. for the same reason, even governments that have

recently engaged in humanitarian interventions without Security Council approval have refrained from defending their actions as legally justified by a doctrine of UHI.15

**The overriding concern about pretext wars rums on assumptions about state opportunism and the power of law and legitimacy in regulating state behavior**. **To address this problem thus requires understanding empirical patterns of interstate hostilities and the influence that international institutions might exert in regulating state conduct. Fortunately, a treasure chest of social science research addresses many of those issues**. Of special interest for this Article are theoretical and empirical insights into the relationship between international and domestic political process. Indeed, **an important turn in political science recognizes that international relations and domestic politics are interrelated and that those connections are central to explaining the causes of war**.16 Whether a permissive international legal environment for humanitarian justifications would spur undesirable uses of force should accordingly be analyzed with these structural factors in mind.

In Part I. I describe the law on the use of force and outline the theoretical model that serves as the basis for the pretext concern. In Part II. I contend that **the academic debate over legalizing UHI fails to account for sociological effects resulting from the process of justifying the predicate for war**. Specifically. I contend that **encouraging aggressively minded states to justify using force as an**

**exercise of humanitarian intervention can facilitate conditions for peace**.

**That result is of course paradoxical. However, its insights are grounded in empirical studies of unintended constraints on state action**. As the discussion in Pan II shows, leaders can become caught in their own public justifications for a military campaign. Consequently, **framing the resort to force as a pursuit of humanitarian objectives, or adding humanitarian issues to a military pursuit, can reorient the character of an interstate conflict and the political foundations for war**. I conclude that—**compared with the existing baseline of interstate disputes that escalate to war—the net effect on aggressive war should be advantageous**. In Pan III. I consider potential objections to and refinements of the argument against the pretext objection.

In short, the claims presented in this Article include both a strong and a modest position. The strong position holds that **legalizing UHI should, on balance, discourage aggressive wars**. If this position is conect. **concerns about pretext wars should be retired**. **The modest position is more easily defended but also highly important. It holds that some wars of aggression that would be fought wider the current legal system would not be fought in a system that permits UHI**. On this view**, it is dubious for the pretext concern to remain an obstacle to legalizing UHI. especially without knowing whether the number of aggressive wars would be greater than the status quo**. Common to both positions is the insight that negative consequences of legalizing UHI can be significantly, if not completely, curtailed. Once the dynamics that produce those limiting effects are revealed, institutional schemes can be designed to strengthen and support them. At bottom, the leading prudential objection to legalizing UHI rests on highly contestable empirical assumptions concerning the effects of legal change on state behavioral patterns. Given the potential value in authorizing states to end genocides and similar atrocities, a substantial misspecification of countervailing effects must be conected and efforts to mitigate those effects closely considered.

### Solvency

#### circumvention- obama will say we are not in hostiliteis

Keynes 92—Professor of Political Science @ Pennsylvania State University [Keynes, Edward, “War Powers Resolution: A Bad Idea Whose Time Has Come and Gone,” University of Toledo Law Review, Vol. 23, Issue 2 (Winter 1992), pp. 343-362]

Despite various presidents' avoidance of the Resolution's formal reporting requirements, analysis and debate on the measure's efficacy and constitutionality during the past. eighteen years have focused on the reporting and triggering mechanisms in section 4(a)(1) and the legislative veto in section 5(b), permitting Congress to order the President to withdraw armed forces from combat by concurrent resolution.2 9 This obsessive focus on the reporting-triggering mechanism and the constitutionality of the legislative veto has obscured the Resolution's underlying rationales and has inhibited an evaluation of its overall effectiveness in promoting joint congressional-presidential participation in and responsibility for imtiating, conducting, and terminating military hostilities. By enacting the War Powers Resolution, Congress hoped to redress the balance between itself and the President when deciding to transform the nation from a condition of peace to one of war or hostilities and to assure that such decisions would evoke the public support necessary to wage war effectively 30 Given these objectives, the Resolution attempts to create the conditions for consultation and decision-making prior to committing U.S. armed forces to combat or to regions where hostilities are imminent. 3'

Although U.S. presidents have submitted eighteen reports to Congress since 1973 (Ford submitted three, Carter one, and Reagan fourteen), these episodes do not reveal the pattern of prior consultation and joint decisionmaking that the Resolution's authors hoped their Resolution would achieve. 32 In ten of twelve instances in which the President dispatched U.S. armed forces abroad without reporting to Congress, the number of troops and the duration of operations were too limited to test the Resolution's efficacy 3 The dispatch of military advisors to El Salvador 34 and the conduct of military training exercises in Honduras" raised serious foreign-policy questions, but Congress did not deal with these concerns within the framework of the War Powers Resolution. As a cursory analysis of the eighteen decisions that Presidents Ford, Carter, Reagan, and Bush communicated to Congress indicates, presidential reporting has not achieved the hoped-for advance consultation and joint decision-making.

As the first four episoaes (the Da Nang sea-lift, the evacuations from Saigon and Cambodia, and the Mayaguez rescue) reveal, President Ford informed Congress either shortly before, during, or immediately after military operations.36 While the State Department's Legal Advisor, Monroe Leigh, claimed that the President's notification met the War Powers Resolution's reporting and consultation requirements, "7 the timing and perfunctory nature of the reports do not represent either consultation or joint decision-making. The President merely informed Congress that military operations were underway or that they were imminent. However, the limited scope and duration of the operations as well as their non-offensive nature suggest that they were within the scope of the President's defensive authority as commander in chief.3 "

President Jimmy Carter failed to inform or consult Congress before the ill-fated attempt to rescue American hostages from the U.S. embassy in Teheran on April 24, 1980.19 Arguing that prior consultation could jeopardize the security of the rescue operation, Carter simply ignored the section 3 requirement of reporting to Congress "in every possible instance" in which the President introduces troops into hostilities or in which hostilities are imminent.4 0 Arguably, since the taking of hostages is an aggressive act under international law, one could describe the President's conduct as defensive and, therefore, within the zone of authority that the Constitution leaves to presidential discretion.4 '

President Ronald Reagan's use of armed forces in Lebanon, the dispatch of naval forces to protect reflagged Kuwaiti tankers in the Persian Gulf, and aerial attacks against Libya indicate a pattern of presidential initiative and congressional deference, 42 with the possible exception of Congress' decision to invoke section 4(a)(1) of the Resolution in September, 1983 On July 6, 1982, President Reagan announced his intention to send a contingent of Marines to Beirut, Lebanon, as part of a multinational peacekeeping force. 43 After withdrawing this first contingent on September 10, the President dispatched a second contingent on September 20, 1982. 44 While Clement Zaoiocki (D Wisc.), Chairman of the House Foreign Affairs Committee, expressed his concerns in writing to the President, Congress did not invoke the War Powers Resolution until September of 1983. 4 1 As a response to a terrorist attack on the Marines' barracks on August 30, 1983, Congress enacted the Multinational Force in Lebanon Resolution ("MFLR") on September 29 "

Although Reagan did not report to Congress under section 4(a)(1), after prolonged negotiations, the MFLR stated that section 4 of the War Powers Resolution had been operative since August 29 47 Congress also authorized the Marines' continuing participation for eighteen months.4 8 While President Reagan never acknowledged that section 4 had become operative, he did sign the MFLR into law 49 However, he denied that his authority to dispatch armed forces for peacekeeping purposes could be "infringed by statute." 50 Referring to the MFLR, Reagan rejected the interpretation that his signature acknowledged congressional power "to revise the President's constitutional authority to deploy United States Armed Forces.''"

Since 1973, the War Powers Resolution's consulting, reporting, and triggering provisions have not appreciably altered the pattern of presidential initiative and congressional deference to various presidents' decisions to use military force as an instrument of U.S. foreign policy Following the U.S. defeat in Vietnam, Gerald Ford's brief term in office, and Jimmy Carter's failure in Iran, Ronald Reagan's decision to ignore or circumvent the War Powers Resolution's consulting and reporting requirements could be interpreted as a deliberate attempt to challenge congressional authority or, alternatively, as a successful strategy for restoring presidential power and U.S. military credibility Were it not for the revelations of covert arms transfers to Iran and illicit aid for the Nicaraguan Contras, Reagan's reassertion of presidential power in military and foreign affairs might have gone completely unchallenged. Despite these misadventures, Ronald Reagan's successful restoration of the presidency enabled George Bush to take unparalleled initiatives in invading Panama and dispatching armed forces to the Persian Gulf. Pg. 252-353

#### empricis support hostiliteis justification

Crook 12 [Fall, 2012, Case Western Reserve Journal of International Law, 45 Case W. Res. J. Int'l L., “Presidential Powers and Foreign Affairs: The War Powers Resolution at 40: Still Controversial: The War Powers Resolution--A Dim and Fading Legacy,” John R. Crook\*, arbitrator in NAFTA and other investment disputes and served on the Eritrea-Ethiopia Claims Commission, Vice-President of the American Society of International Law and former General Counsel of the Multinational Force and Observers, the peacekeeping force in the Sinai, teaches international arbitration at George Washington University Law School]

The War Powers Resolution is the product of a time when Congress was riding particularly high and the presidency was particularly weak. n6 That unusual array of circumstances has not been repeated. In the ensuing years, no administration has accepted the constitutionality of the Resolution's key provisions. n7 At the other end of Pennsylvania Avenue, Congress has not mustered the collective will to insist on full and timely compliance with the Resolution in a wide range of cases. n8 From time to time, the Resolution has offered both Republican and Democratic presidents' political opponents an avenue to attack their compliance with particular policies or actions. Nevertheless, Congress has not shown itself willing or able to perform the role it set out for itself in Section 5 of the Resolution. n9 [\*160]

## 2NC

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#### Restrictions on war power are prohibitive

David J. Barron & Martin S. Lederman, Harvard Law Review, February 2008. “THE COMMANDER IN CHIEF AT THE LOWEST EBB — A CONSTITUTIONAL HISTORY,” http://www.harvardlawreview.org/media/pdf/barron\_lederman2.pdf

251–52. Senator Edward Gurney asked what would happen if Congress had imposed such a restriction but then the President had learned of missiles in the Eastern Hemisphere that ¶ were to be fired at the U.S. Capitol within two weeks. Rehnquist’s response was revealing: he ¶ replied not that there would be a Commander in Chief override in such a case, but that the President would be “perfectly right in concluding that Congress had not intended [the prohibition] to ¶ apply to this situation.” Id. at 252. That is to say, he was prepared to read an implicit emergency exception into such a statutory limitation.

#### That includes only outright prohibitions on war powers, not mere consequences

**Caiaccio 94** (Kevin T., “Are Noncompetition Covenants Among Law Partners Against Public Policy?”, Georgia Law Review, Spring, 28 Ga. L. Rev. 807, Lexis)

The Howard court began its analysis by examining the California Business and Professions Code, which expressly permits reasonable restrictive covenants among business partners. [139](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=2f902ef509c60febb5baa821f74f591c&docnum=69&_fmtstr=FULL&_startdoc=51&wchp=dGLzVzz-zSkAb&_md5=13c4fa4ea4799356b6831f265d253078&focBudTerms=the+word+restrict+or+the+term+restrict+or+the+phrase+restrict+&focBudSel=all" \l "n139" \t "_self) The court noted that this provision had long applied to doctors and accountants and concluded that the general language of the statute provided no indication of an exception for lawyers. [140](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=2f902ef509c60febb5baa821f74f591c&docnum=69&_fmtstr=FULL&_startdoc=51&wchp=dGLzVzz-zSkAb&_md5=13c4fa4ea4799356b6831f265d253078&focBudTerms=the+word+restrict+or+the+term+restrict+or+the+phrase+restrict+&focBudSel=all" \l "n140" \t "_self) After reaching this conclusion, however, the court noted that, since it had the authority to promulgate a higher standard for lawyers, the statute alone did not necessarily control, [141](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=2f902ef509c60febb5baa821f74f591c&docnum=69&_fmtstr=FULL&_startdoc=51&wchp=dGLzVzz-zSkAb&_md5=13c4fa4ea4799356b6831f265d253078&focBudTerms=the+word+restrict+or+the+term+restrict+or+the+phrase+restrict+&focBudSel=all" \l "n141" \t "_self) and the court therefore proceeded to examine the California Rules of Professional Conduct. [142](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=2f902ef509c60febb5baa821f74f591c&docnum=69&_fmtstr=FULL&_startdoc=51&wchp=dGLzVzz-zSkAb&_md5=13c4fa4ea4799356b6831f265d253078&focBudTerms=the+word+restrict+or+the+term+restrict+or+the+phrase+restrict+&focBudSel=all" \l "n142" \t "_self) The court avoided the apparent conflict between the business statute and the ethics rule by undertaking a strained reading of the rule. In essence, the court held that the word "restrict" referred only to outright prohibitions, and that a mere "economic consequence" does not equal a prohibition. [143](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=2f902ef509c60febb5baa821f74f591c&docnum=69&_fmtstr=FULL&_startdoc=51&wchp=dGLzVzz-zSkAb&_md5=13c4fa4ea4799356b6831f265d253078&focBudTerms=the+word+restrict+or+the+term+restrict+or+the+phrase+restrict+&focBudSel=all" \l "n143" \t "_self)

#### Ruins precision --- “restriction” is a term of art, distinct from anything that results in less production

Randall 7 (Judge – Court of Appeals of the State of Minnesota, “Dee Marie Duckwall, Petitioner, Respondent, vs. Adam Andrew Duckwall, Appellant”, 3-13, <http://law.justia.com/cases/minnesota/court-of-appeals/2007/opa0606>95-0313.html#\_ftnref2)

[2] When referring to parenting time, the term "restriction[,]" is a term of art that is not the equivalent of "reduction" of parenting time. "A modification of visitation that results in a reduction of total visitation time, is not necessarily a restriction' of visitation.' Danielson v. Danielson, 393 N.W.2d 405, 407 (Minn. App. 1986).When determining whether a reduction constitutes a restriction, the court should consider the reasons for the change as well as the amount of the reduction."Anderson v. Archer, 510 N.W.2d 1, 4 (Minn. App. 1993).

### ER Solv: Announcement

#### solves- sufficient

#### Speeches prove the CP solves better

Rebecca Ingber, Associate Research Scholar, Columbia Law School; 2011-2012 Council on Foreign Relations International Affairs Fellow and Hertog National Security Law Fellow, Columbia Law School, “Interpretation Catalysts and Executive Branch Legal Decisionmaking” Summer 2013, 38 Yale J. Int'l L. 359

As a catalyst over which executive officials exercise significant control, speechmaking is explicitly used to answer criticism, explain a position, or highlight positive policies - in a highly public manner - when doing so is seen as useful to an official or the executive more broadly. Thus it encourages the promulgation of positions that (1) can be issued publicly and (2) will satisfy a [\*402] given audience, on (3) a timetable that serves the executive or a particular official.¶ With the speechmaking catalyst the audience may be multifaceted; thus a speechmaker may seek, for example, simultaneously to reassure a civil liberties-oriented listener of the reasonable constraints on the President's authority to use military force to target particular groups or individuals, while assuring a security-oriented listener that the executive branch is aggressively pursuing security threats. n201 It is also an audience over which the official has some control, by for example choosing to present her speech at a particular forum - although in the internet age, that control is rarely perfect - and she may exercise that control as a way of seeking to influence the message.¶ Speechmaking provides an opportunity for laying out new policy or legal views in a context in which particular officials can manage and to some degree manipulate the timetable. Speechmaking often builds on positions that are either already formed or are in the process of forming internally within the executive, but an upcoming speech - and thus the decision to give it - can bring matters to a head and shape the pressures affecting the decision.¶ Finally, speechmaking can further entrench a position first by creating a vetted written document, and then through its public disclosure. As with positions taken in other contexts, the views expressed by U.S. officials in speeches are generally taken to be the coordinated views of the U.S. government as a whole, and are difficult (and should require explanation) to later reverse. n202 Unlike litigation and the treaty-body reporting process, speechmaking is not specifically directed at a formal body that will hold the U.S. government to its prior positions and demand explanation for change; nevertheless, the media and voting public will likely expect such explanation, and speeches are generally a more public medium than briefs or treaty reports. n203 And as a practical matter, the vetting and clearing of the executive's position on an issue, in particular, an issue of legal interpretation, can be so difficult and time-consuming that once a speech or other statement is cleared, it is repeatedly recycled and becomes the go-to source for all talking points, reports, briefs or anything that requires explaining the government's position [\*403] on that matter, further extending - and prolonging - the effect of the initial statement. n204¶ Unlike the litigation and treaty body catalysts, speechmaking does not tend to provide an opportunity for granularity of legal positions. The purpose is generally to explain the executive's views or policy at a level comprehensible to the public, including non-lawyers and non-experts. But like these other catalysts, it would be rare for speechmaking to force the executive to take a position that all or most internal officials would otherwise aggressively avoid. In fact, speechmaking does not necessarily tend in a given substantive direction other than toward greater transparency. Speechmaking can be defensive when it is employed to explain prior action; it can emphasize human rights or international law when used to curry favor with an international audience.¶ As a procedural tool, however, speechmaking has a clear influence within the executive. Speechmaking's most significant procedural effect is its necessary inclusion of a particular high-level official into the decisionmaking process. The speechmaker will also often control the nature of the audience to whom she speaks, and thus can influence the contextual pressures surrounding the speech. Thus the speechmaker can drive a decisionmaking process around a particular timetable, shape the players involved, influence the contextual pressures, ensure the durability of the position expressed, and secure her own position-of-honor at the decisionmaking table. Speechmaking may thus be one of the most instrumental catalysts available for high-level executive officials.

### ER Solv: A2 “Signalling”

CP sends the most powerful signal

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, [www.foreignpolicy.com/articles/2012/12/03/obamas\_moment](http://www.foreignpolicy.com/articles/2012/12/03/obamas_moment) gender edited

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -- for better or for worse -- as the authentic voice of America.

To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when [s]he speaks and then decisively acts for America.

This is true even in the face of determined opposition. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

Congress has zero credibility – ruins the signal

Cook, Editor of *The Cook Political Report*, Columnist for the *National Journal*, 2011

(Charlie, “Congress Becomes a Laughingstock,” http://cookpolitical.com/story/3210)

My wife told me recently about a Facebook post by an acquaintance that held Congress up to ridicule. Apparently, the sentiment was enthusiastically endorsed by people who spanned her entire network of friends—from the most liberal to the most conservative. My wife couldn’t recall anything else that had been so universally embraced by such a politically diverse group of people.

If this debt-ceiling debate is producing any political winners or beneficiaries, they have no connection to Congress or the White House. The unfavorable ratings for both parties are climbing, and President Obama’s job-approval rating in the Gallup Poll fell to 43 percent in one recent week, tied for the lowest of his presidency. (At this writing, it is at 46 percent approval/46 percent disapproval, hardly what a president seeking reelection wants to see.) The debt-ceiling debacle has become like a bomb that keeps exploding in Washington, hurting both sides and each end of Pennsylvania Avenue, effectively damaging everyone in sight.

Sadly, my view is that it will probably take a significant stock-market plunge of 500 or 1,000 points in the Dow Jones industrial average, perhaps triggered by a bond-ratings downgrade, to focus minds and cut through the political posturing. The stock and bond markets, neurotic and skittish under the best of circumstances, have been remarkably patient, looking the other way and quietly assuming that everything will work out. They may reach the end of their patience any day. Even a modest deal on deficit reduction and a short-term increase in the debt ceiling may not bring enough confidence to the markets.

A significant market plunge would cause great pain to 401(k) retirement plans, other personal savings, and the economy in general. The negative wealth effect would be great, but another type of loss would be just as bad—just not as obvious.

Washington is now sullying America’s long-deserved reputation as the leading country in the world to such an extent that we are becoming a laughingstock. The renowned, late journalist A.J. Liebling, a fixture for many years in The New Yorker and a chronicler of then-Louisiana Gov. Earl Long, once wrote that the home state I share with Long was “the northernmost of the banana republics.” If Liebling were alive today, he might expand his “northernmost” banana republic to include the whole United States, with Washington as its sorry capital. My guess is that most members of Congress and their aides are too close to the process and don’t fully appreciate what they are doing to themselves, the institution, and the nation’s political process. The Pictorial Directory test will determine if I’m right.

### ER: A2 “Theory—ER Bad”

#### 2. Inter-branch politics are crucial in the context of war powers – it's the reason restrictions exist – makes the counterplan educational and necessary ground

Jenkins 10 (David – Assistant Professor of Law, University of Copenhagen, “Judicial Review Under a British War Powers Act”, Vanderbilt Journal of Transnational Law, May, 43 Vand. J. Transnat'l L. 611, lexis)

In this pragmatic way, the Constitution attempts to balance the efficiency of centralized, executive military command with heightened democratic accountability through legislative debate, scrutiny, and approval. n28 Therefore, despite the Constitution's formal division of war powers between the executive and the legislature, disputes over these powers in the U.S. are usually resolved politically rather than judicially. n29 This constitutional arrangement implicitly acknowledges that both political branches possess certain institutional qualities suited to war-making. n30 These include the dispatch, decisiveness, and discretion of the executive with the open deliberation of the legislature and localized political accountability of its members, which are virtues that the slow, case specific, and electorally isolated courts do not possess. n31 The open, politically contestable allocation of [\*618] war powers under the Constitution not only permits differing and perhaps conflicting interpretations of the legal demarcations of branch authority but also accommodates differing normative preferences for determining which values and which branches are best-suited for war-making. n32 Furthermore, this system adapts over time in response to inter-branch dynamics and shifting value judgments that are themselves politically contingent. Thus, the American war powers model is an intrinsically political - not legal - process for adjusting and managing the different institutional capabilities of the legislative and executive branches to substantiate and reconcile accountability and efficiency concerns. A deeper understanding of why this might be so, despite the judiciary's power to invalidate even primary legislation, can inform further discussions in the United Kingdom about the desirability and advisability of putting the Crown's ancient war prerogative on a statutory footing.

#### 3. Process key to education

Schuck 99 (Peter H., Professor, Yale Law School, and Visiting Professor, New York Law School, Spring (“Delegation and Democracy” – Cardozo Law Review) http://www.constitution.org/ad\_state/schuck.htm)

God and the devil are in the details of policymaking, as they are in most other important things—and the details are to be found at the agency level. This would remain true, moreover, even if the nondelegation doctrine were revived and statutes were written with somewhat greater specificity, for many of the most significant impacts on members of the public would still be indeterminate until the agency grappled with and defined them. Finally, the agency is often the site in which public participation is most effective. This is not only because the details of the regulatory impacts are hammered out there. It is also because the agency is where the public can best educate the government about the true nature of the problem that Congress has tried to address. Only the interested parties, reacting to specific agency proposals for rules or other actions, possess (or have the incentives to ac-quire) the information necessary to identify, explicate, quantify, and evaluate the real-world consequences of these and alternative proposals. Even when Congress can identify the first-order effects of the laws that it enacts, these direct impacts seldom exhaust the laws’ policy consequences. Indeed, first-order effects of policies usually are less significant than the aggregate of more remote effects that ripple through a complex, interrelated, opaque society. When policies fail, it is usually not because the congressional purpose was misunderstood. More commonly, they fail because Congress did not fully appreciate how the details of policy implementation would confound its purpose. Often, however, this knowledge can only be gained through active public participation in the policymaking process at the agency level where these implementation issues are most clearly focused and the stakes in their correct resolution are highest.

#### No link: Object of the resolution is “authority” not “war powers”--restricting authority requires reducing the permission to act, not the ability to act.

Taylor, 1996 (Ellen, 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

### Counterplan Means You Vote Neg: 2NC

#### Turn – Focusing on the effects of policies rather than the motivation behind them is key to solvency

Lynn 99 (Laurence, Sid Richardson Research Prof. in LBJ School of Public Affairs @ UT Austin, Journal of Policy Analysis and Management, “A Place at the Table: Policy Analysis, Its Postpositive Critics, and the Future of Practice”, 18:3)

Policy analysis, says Torgerson, is "haunted" by its original "dream" which, as he tells it, bearing "the unmistakable imprint of the positivist heritage," is of the abolition of politics (p. 34, emphasis added). "Professional policy analysis," he says, "is not really of this world-this all-too-human world of conflict, confusion, and doubt.... [T]he analyst . . . becomes one who performs remote operations on an essentially alien object" (p. 35). Because the goals of policy are matters of value, not facts and logic, goals cannot be included within the scope of what the policy analyst knows about. As a result, conventional policy analysis is "blinded to political reality" (p. 37). The policy analysts' "dream," he says, must be seen for the nightmare that it is: Huxley's Brave New World, Orwell's 1984. Writing in 1986, Torgerson was optimistic that the "spell of positivism" might be broken by the postpositive turn in social science. The policy analyst is succumbing to the temptation to join society and develop the "participatory potential" of policy analysis. Intellectual sustenance for this movement was being provided by Majone's thinking on policy analysis, which helps shatter "the technocratic expectation of precise and certain solutions" (p. 44). New fields such as impact assessment, says Torgerson, invite broader evaluation of technocratic solutions. Postpositive policy analysts will come to have "an acute awareness of their own frailty and fallibility" and will "make their humanity apparent" (p. 51).

#### Turn – Comparing alternative ways of achieving the same policy goal is key to break down the oppression and power relations they criticize

Shaffer 04 (Gregory, University of Wisconsin Law School, “Power, Global Governance, and the WTO: What Role for the WTO Judicial Process?”, for a conference on Comparative Institutional Analysis, Madison, WI., September 10-11, 2004, <http://www.law.wisc.edu/webshare/hC/Shaffer%205-17-04.rtf>)

For example, when critical analysts of structural and productive forms of power recognize that there are variations in “false consciousness” and “constructed identity” along a continuum, then comparative institutional analysis can (and should) be applied to these conceptions of power, since some governance arrangements facilitate a comparatively “truer,” less constrained representation of interests and identities than others. The dynamic of participation in different institutional contexts plays a central role in shaping “consciousness” and identity. Those with high stakes in a policy outcome and access to quality information are, as a general rule, more likely to participate and less susceptible to exhibit “false consciousness” than those with low stakes who lack cost-effective access to information. As the critical scholar Clarissa Hayward (2000, 7) contends in her assessment of power’s productive attributes, “social critics need to elaborate criteria for distinguishing better from worse forms of power relation, or, more specifically, relations that promote participants’ political freedom—that is, their capacity to act in ways that affect norms and other political mechanisms defining the field of the possible—from those that approximate states of domination.” Hayward implicitly calls for a comparative analytic approach to the examination of productive power, recognizing that an assessment of power’s role in any single governance mechanism is insufficient for policymaking. As this chapter will demonstrate, institutional alternatives are available and these alternatives should be examined from a comparative institutional vantage.

#### Turn – The counterplan is more ethical – Avoids the dogmatism of claiming their ethic can never be modified and can only be achieved in one way

Solt 03 (Roger, Debate Coach, University of Kentucky, “The Disposition of Counterplans and Permutations: The Case for Logical, Limited Conditionality” <http://www.wfu.edu/Student-organizations/debate/MiscSites/DRGArticles/Solt2003.htm>)

The notion that conditional argument is somehow unethical strikes me as even less compelling. Considering several different alternatives does not, on its face, seem morally problematic. Nor does it seem immoral, generally speaking, to modify one’s position to some extent over the course of a discussion or a debate. One might even defend such a course as ethically superior to the approach of adopting a dogmatic stance permitting neither compromise nor modification based on new insights.

### ER NB: Politics 2NC

#### CP is executive action—obviously avoids Congressional fights

Fine 12

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

#### The CP triggers Congressional follow-on and avoids confrontation

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, www.foreignpolicy.com/articles/2012/12/03/obamas\_moment

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -for better or for worse -as the authentic voice of America.

To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when he speaks and then decisively acts for America.

This is true even in the face of determined opposition. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

### cirucum-Lk: WPR 2NC

#### Historically wrong

Garrison 12—Professor of Criminal Justice at Kutztown University [Dr. Arthur H. Garrison, “History of Executive Branch Legal Opinions on the Power of the President as Commander-in-Chief from Washington to Obama,” Cumberland Law Review, Vol. 43, Issue 3 (2012-2013), pp. 375-494]

IV. CONCLUSION

Historically the State Department, 388 various Attorneys General, and the OLC, from the Washington through Obama Administrations, have issued formal and informal opinions supporting the broadest interpretation of the Article II Commander in Chief power of the President. Almost from the inception of the Constitution, presidents have been advised that they have plenary, if not exclusive, power over foreign policy and the use of military force with and without prior congressional approval. Historically, Congress has exercised a secondary role in the face of presidential decisionmaking regarding American foreign policy and has never successfully asserted that the power to declare war belonged primarily to the Legislative branch. The power to declare war has been a different power than the power to make war or respond to war inflicted upon the United States.3 From Lincoln to the modern Presidency, all presidents have asserted the power to deploy the military, even if that could entail military combat to protect American interests, and that congressional approval is not constitutionally required for such deployments to be lawful 390 The Obama Administration continued this traditional view and has continued to defend the theory of plenary power in foreign and military affairs as Commander in Chief.39' pg. 478-479

#### President will circumvent – Congress and Courts won’t hold them accountable

Newton 12 (Michael – Professor of the Practice of Law, Vanderbilt University Law School, “Presidential Powers and Foreign Affairs: The War Powers Resolution at 40: Still Controversial: Inadvertent Implications of the War Powers Resolution”, 2012, 45 Case W. Res. J. Int'l L. 173, lexis)

President as Litigator-in-Chief First, debates over the applicability of the War Powers Resolution have shifted the attention from the proper role of the president as the national leader to that of the national litigator-in-chief. The interpretation guidance to the War Powers Resolution states that the Resolution should not be "construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances." n50 But this assumes that the president already has such authority, and that the Resolution is not "intended to alter the constitutional authority of the . . . President." n51 Additionally, although the text makes plain that, even in the absence of specific authorization from Congress, the President may introduce armed forces into hostilities only in "a national emergency created by attack upon the United States, its territories or possessions, or its armed forces," every lucid observer concedes that this declaration, found in the Purpose and Policy section, either is incomplete or is not meant to be binding. n52 The War [\*186] Powers Resolution effectively marginalized the congressional role to carping from the sidelines as various presidents have launched an increasingly diverse range of military operations. After forty-years practice, there is a long line of precedent that has stretched the bounds of executive power in ways that could scarcely have been imagined by the framers. For example, the OLC opinion for the use of force in Somalia in 1992 reasoned that, "Attorneys General and this Office have concluded that the President has the power to commit United States troops abroad as well as to take military action, for the purpose of protecting important national interests," even without specific prior authorization from Congress. n53 Just two years later, the OLC echoed its' reasoning in the deployment of armed forces into Haiti. n54 The "pattern of executive conduct, made under claim of right, extended over many decades and engaged in by Presidents of both parties, 'evidences the existence of broad constitutional power.'" n55 The independent authority of the executive derives from the president's unique responsibility, as Commander-in-Chief and chief executive for foreign and military affairs as well as national security. n56 The OLC used similar reasoning once again in 1995 in relation to the proposed deployment into Bosnia. n57 It explained that the scope and limits of the congressional power to declare war is not well defined by constitutional text, case law, or statute, but rather, the relationship of Congress' power to declare war and the president's authority as Commander-in-Chief and chief executive has been clarified by two-hundred years of practice. n58 [\*187] This frame of reasoning is uniformly supported by the judiciary, including the Supreme Court. Chief Justice Rehnquist explained in Dames & Moore v. Regan: A systematic, unbroken, executive practice, long pursued to the knowledge of the Congress and never before questioned . . . may be treated as a gloss on "Executive Power" vested in the President by $ S 1 of Article II. Past practice does not, by itself, create power, but long-continued practice, known to and acquiesced in by Congress, would raise a presumption that the action had been taken in pursuance of its consent[.] n59 In Haig v. Agee, Chief Justice Burger further reasoned that the historical practice reflects the two political branches' practical understanding, developed since the founding of the republic, of their respective roles and responsibilities with respect to national defense. n60 Jack Goldsmith, who admirably delivered the keynote address earlier this morning, described this reasoning as simply a principle of constitutional law--"that a constitutional meaning may be liquidated by constitutional practice." n61 Professor Goldsmith argued that Congress had known about the pattern of presidential unilateralism for decades and done little in response. Congress has never seriously questioned the use of overseas military power without its authorization, much less impeached a president for authorizing such force. Instead, a succession of bipartisan legislatures has financed an enormous military force in the face of this continuing practice and has consistently refused to withhold funding for a wide array of deployments. The net effect of this practice has been to immunize the president from oversight. Hence, presidents of both parties are in an almost unassailably strong litigation posture vis-á-vis Congress, and they know it. The War Powers Resolution has therefore had the paradoxical effect of displacing good faith debate and dialogue between the branches with after-the-fact litigation. Presidents of both parties have felt confident that courts would support their executive prerogatives, and the War Powers Resolution has had the unfortunate effect of creating the perception that the constitutional authority is subject to distributive In bargaining between the executive and legislative branches. Thus, presidents have relied upon their inherent [\*188] constitutional authority, secure in the belief that the war-making function is not a zero sum game. the process, there has been a tendency to rely upon successful litigation strategies rather than a clearly presented framing of the national objectives at stake in a given deployment or a clear-eyed national discussion of the merits of such overseas action.

#### [3.] Empirics on presidents ignoring WPR prove the trend

Isaacs 2011

[John Isaacs, 2011, executive director of Council for a Livable World, War Powers Resolution consistently ignored, <http://thehill.com/blogs/congress-blog/foreign-policy/172803-war-powers-resolution-consistently-ignored>, uwyo//amp]

President Harry F. Truman ignored Congress when in 1950 he sent troops to Korea to stave off a North Korean advance into the South. Almost 1.8 million Americans fought in Korea, with some 33,600 American deaths. But there never was a congressional authorization, and Congress continued to appropriate funds to prosecute the war. The War Powers Resolution also appeared to be a check against Nixon’s power, a President recently overwhelmingly re-elected who was becoming more and more enmeshed in the Watergate scandal. Indeed, I played only a bit role, helping to convince some liberals such as Representatives Bella Abzug (D-NY) and Robert Drinan (D-Mass.) that Congress was not ceding additional power to the President by giving him or her 60 or 90 days to conduct war without approval of Congress. Fast forward to today. Every President since 1973, including Barack Obama, has decided to ignore the law as an unconstitutional assertion of power.

### Lk: Top 1NC (:30

#### Legal gymnastics: Obama will re-define words to skirt enforcement

Pollack, 13 -- MSU Guggenheim Fellow and professor of history emeritus [Norman, "Drones, Israel, and the Eclipse of Democracy," Counterpunch, 2-5-13, www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/, accessed 9-1-13, mss]

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to remake the laws of war by consciously violating them and then creating new legal concepts to provide juridical cover for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (Obama is hardly a novice at this game of stretching the law to suit the convenience of, shall we say, the national interest? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama redefined the meaning of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

#### Institutional incentives– obama will fight harder than congress

Dickinson, Middlebury college political science professor, 2011

(Matthew, “Will You End Up in Guantanamo Bay Prison?”, 12-3, <http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/>,)

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

## 1NR

### A2 “Hendricks”

**Applying complexity theory to policy causes paralysis and numerous other failures**

**Hendrick9** (Diane; Department of Peace Studies – University of Bradford, “Complexity Theory and Conflict Transformation: An Exploration of Potential and Implications,” June,http://143.53.238.22/acad/confres/papers/pdfs/CCR17.pdf)

**It is still relatively early days in the application of complexity theory to social sciences and there are doubts and criticisms, either about the applicability of the ideas or about the expectations generated for them**. It is true that the translation of terms from natural science to social science is sometimes contested due to the significant differences in these domains, and that there are concerns that **the meanings of terms may be distorted, thus making their use arbitrary or even misleading**. Developing new, relevant definitions for the new domain applications, where the terms indicate a new idea or a new synthesis that takes our understanding forward, are required. In some cases, **particular aspects of complexity theory are** seen as **of only limited applicability**, for example, self-organisation (see Rosenau‘s argument above that it is only relevant in systems in which authority does not play a role). There are those who argue that **much that is being touted as new is actually already known, whether from systems theory or from experience**, and **so complexity theory cannot be seen as adding value in that way**. There are also concerns that the **theory has not been worked out in sufficient detail, or with sufficient rigour, to make itself useful** yet. Even that **it encourages woolly thinking and imprecision**. **In terms of application in the field**, it could be argued that **it may lead to paralysis, in fear of all the unexpected things that could happen, and all the unintended consequences that could result, from a particular intervention**. The proposed adaptability and sensitivity to emerging new situations may lead to difficulties in planning or, better expressed, must lead to a different conception of what constitutes planning, which is, in itself, challenging (or even threatening) for many fields. **The criteria for funding projects or research may not fit comfortably with a complexity approach, and evaluation, already difficult especially in the field of conflict transformation**, would require a re-conceptualisation. Pressure for results could act as a disincentive to change project design in the light of emergent processes. There may be the desire to maintain the illusion of control in order to retain the confidence of funders. **On the other hand**, there are fears that **complexity may be used as an excuse for poor planning, and implementation**, which is a valid concern for funders. **In addition**, there may be scepticism that **the co-operation and co-ordination between different researchers or interveners**, (let alone transdisciplinary undertakings) **appropriate to working on complex problem domains, will not work due to differing mental models, competing interests and aims, competition for funding, prestige, etc**. **Such attempts appear, therefore, unrealistic or unfeasible.**

**The disad isn’t a string of linear causes: it is scenario planning: solves 100% of their imapcts to the ‘complexity’ of international politics and is key to adjudicating claims about the future**

Steven **Bernstein** et al., “God Gave Physics the Easy Problems: Adapting Social Science to an Unpredictable World,” EJIR, 6, 43, **2000**, p. 53-55

**One useful alternative approach is the development of scenarios**, or narratives with plot lines **that map a set of causes and trends in future time.** **This** forward reasoning **strategy is based on a notion of contingent causal mechanisms, in opposition to** the standard, neo-positivist focus on **efficient causes**, but with no clear parallel in evolutionary biology. It should not be confused with efforts by some to develop social scientific concepts directly analogous to evolutionary mechanisms (such as variation or selection) in biology to explain, for example, transformations in the international system or institutions, or conditions for optimum performance in the international political economy. **Scenarios are not predictions;** rather, **they start with the assumption that the future is unpredictable** and tell alternative stories of how the future may unfold. **Scenarios** **are generally constructed by distinguishing what we believe is relatively certain from what we think is uncertain.** The most important ‘’certainties’ are common to all scenarios that address the problem or trend, while the most important perceived uncertainties differentiate one scenario from another. The approach differs significantly from a forecasting tournament or competition, where advocates of different theoretical perspectives generate differential perspectives on a single outcome in the hope of subsequently identifying the ‘best’ or most accurate performer. Rather, **by constructing scenarios**, or plausible stories of paths to the future**, we can identify the different driving forces** (a term we prefer to independent variable, since it implies a force pushing in a certain direction rather than what is known on one side of an ‘equals’ sign) and then attempt to combine these forces **in logical chains that generate a range of outcomes**, rather than single futures. **Scenarios make contingent claims rather than point predictions**. They reinsert a sensible notion of contingency into theoretical arguments that would otherwise tend toward determinism. **Scholars in i**nternational **r**elations **tend to privilege arguments** **that reach back into the past** and parse out one or two causal variables that are then posited to be the major driving forces of past and future outcomes. The field also favors variables that are structural or otherwise parametric, thus downplaying the role of both agency and accident**. Forward reasoning undercuts structural determinism by raising the possibility and plausibility of multiple futures**. **Scenarios** are impressionistic pictures **that build on different combinations of causal variables that may also take on different values in different scenarios**. Thus **it is possible to construct scenarios without pre-existing firm proof of theoretical claims that meet strict positivist standards**. **The foundation** for scenarios **is** made up of **provisional** assumptions and causal claims. These become the subject of revision and updating more than testing. A set of scenarios often contains competing or at least contrasting assumptions. It is less important where people start, than it is where they end up through frequent revisions, and how they got there**. A good scenario is an internally consistent hypothesis about how the future might unfold; it is a chain of logic that connects ‘drivers’ to outcomes** (Rosell, 1999:126). Consider as an example one plausible scenario at the level of a ‘global future’ where power continues to shift away from the state and towards international institutions, transnational actors and local communities. The state lose its monopoly on the provision of security and basic characteristics of the Westphalian system as we have known it are fundamentally altered. In this setting, key decisions about security, economics and culture will be made by non-state actors. Security may become a commodity that can be bought like other commodities in the global marketplace**. A detailed scenario** about this transformation would **specify the range of changes that are expected to occur** and how they are connected to one another. **It would** also **identify what kinds of evidence might support the scenario** as these or other processes unfold over the next decade, and what kind of evidence would count against the scenario. This is simply a form of process tracing, or **increasing the number of observable implications of an argument**, in future rather than past time. **Eventually**, as in the heuristics of evolutionary biology, **future history becomes data**. Bu**t instead of thinking of data as something that can falsify** any particular **hypothesis, one should think of it as something capable of distinguishing or selecting the story that was from the stories that might have been**.

**There is zero empirical basis for extending complexity to social systems- they have their epistemology backwards- complexity needs to be meaningfully capable of describing an empirical example of emergence otherwise it is a buzzword- the standard of complexity science should be prescriptive- this is the d-rule for adjudicating complexity in physics and biology**

Terrence W. **Deacon**, Professor of Anthropology and Human Evolutionary Biology at University of California Berkeley- he is the foremost expert on different orders of emergence in thermodynamic, biology, and neurological systems, “Emergence: The Hole at the Wheel’s Hub,” **2006**

Over the past few decades, this compositional usage has become more and more prominent as scientists in different fields have encountered similar transitional patterns in systems as diverse as liquid convection patterns and the appearance of unprecedented social dynamics. In non-technical discussions the phrase **'the whole is more than the sum of the parts' is often quoted** to convey this sense of novelty generated via ascent in scale. This phrase originates with Aristotle and captures two aspects of the **emergence** concept: the distinction between a merely quantitative difference and a qualitative one, and effects involving the combination of elements whose patterns of interaction contribute to global properties that are not evident in the components themselves. **There is something a bit misleading about this way of phrasing the relationship that harkens back to a something-from-nothing conception. Exactly what 'more' is being appealed to, if not the parts and their relationships, is seldom made explicit.** This additive conception has often led to the expectation that new classes of physical laws come into existence with increases in scale and the interaction effects that result. This conception of emergence is often described as 'strong emergence' because it implies a dissociation from the physics relevant to the parts and their relationships. It is contrasted with 'weak emergence' that does not entail introduction of any new physical principles. The latter is often seen merely as a redescriptive variant of standard reductionistic causality, and thus as emergence only with respect to human observers and their limited analytic tools. In this essay I will argue that we can still understand the emergence of novel forms of causality without attributing it to the introduction of unprecedented physical laws. Indeed, I will argue that only to the extent that an unbroken chain of causal principles links such higher-order phenomena as consciousness to more basic physical processes will we have an adequate theory of emergence. **In the last decades of the twentieth century the concept of emergence has taken on a merely descriptive function in many fields. It is applied to any case of the spontaneous production of complex dynamical patterns from uncorrelated interactions of component parts. This shift from a largely philosophical to this more descriptive usage of the term emergence** has been strongly influenced by the increasing use of computational simulations to study complex systems. Some of the more elaborate examples of these phenomena have been the topics of **so-called** chaos and **complexity theories**, and have become commonplace in computational models of dynamical systems, cellular automata, and simulations of non-equilibrium thermodynamic processes. **This more general conception of emergence** **has been adopted** by many other fields where complex interaction effects may be relevant, such as **in the social sciences**. **Evolutionary and mental processes are also treated as producing emergent effects, though the complexity of evolution, not to mention cognition compared with dynamical systems, suggests that more subtle distinction between kinds of emergence may be necessary** (see below). **Because of this terminological promiscuity there is likely to be no common underlying causal principle that ties all these uses togethe**r. Nevertheless**, I think that with care a technical usage tied to a well-characterized class of empirical exemplars can be articulated for which a clear theory of emergent processes can be formulated**. The exemplars of emergent phenomena that serve as guides for this analysis occupy a middle position in the taxonomy of different emergent dynamics that I describe below. They represent a well-understood set of physical and computational systems that all share a form-amplifying, form-propagating, form-replicating feature. This feature is exhibited irrespective of whether they are physical or computational phenomena. These phenomena are often called self-organizing, because their regularities are not externally imposed but generated by iterative interaction processes occurring in the media that comprise them. They serve as a useful starting point because they allow us to extrapolate both upward to more complex living phenomena and downward to simpler, merely mechanistic phenomena. **I decry using emergence as an anti-reductionistic code word in holistic criticisms of standard explanations. In this use, the concept of emergence is a place holder, indicating points where standard reductionistic accounts seem to be incomplete in explaining apparent discontinuities. In this negative usage, emergence serves only as a philosophically motivated promissory note for a missing explanation that, critics argue, is needed to flll in a gap.** **In contrast**, the purpose of the present essay is to outline **a technical sense of emergence** that **explicitly describes a specifc class of causal topologies** (i.e. § Marked 19:52 § self-constituting causal structures**) and then attempts to show how this may help to explain many of the attributes that have motivated the emergence concept. This approach avoids engaging the pointless semantic debates about the completeness of reductionism or dealing with metaphysical questions about the ontological status of emergence**. The term will only be applied to well-understood empirical processes, and yet I will argue that it does indeed mark the transition to unprecedented and indecomposable causal architectures. It may be wondered, then, what more besides a taxonomic exercise is provided by identifying the emergent architectural features of known physical processes? **By providing an explicit account of how apparent reversals of causal logic come about, how variant forms of these processes are related to one another, and what aspects of their dynamic organization are most critical to the development of these attributes, we can gain critical perspective on the apparent discontinuities between simple mechanistic and teleological models of causality.**

### A2 Low Risk

**The impact to extinction is infinite potential lives – Even a miniscule risk outweighs everything else**

**Bostrum 03** (Nick, Professor of philosophy at Oxford, Winner of the Eugene R. Gannon Award for the Continued Pursuit of Human Advancement, “Astronomical Waste: The Opportunity Cost of Delayed Technological Development” <http://www.nickbostrom.com/astronomical/waste.html>)

The effect on total value, then, seems greater for actions that accelerate technological development than for practically any other possible action. Advancing technology (or its enabling factors, such as economic productivity) even by such a tiny amount that it leads to **colonization of the local supercluster just one second earlier** than would otherwise have happened **amounts to bringing about more than 10^31 human lives** (or 10^14 human lives if we use the most conservative lower bound) that would not otherwise have existed. Few other philanthropic causes could hope to mach that level of utilitarian payoff. Utilitarians are not the only ones who should strongly oppose astronomical waste. There are many views about what has value that would concur with the assessment that the current rate of wastage constitutes an enormous loss of potential value. For example, we can take a thicker conception of human welfare than commonly supposed by utilitarians (whether of a hedonistic, experientialist, or desire-satisfactionist bent), such as a conception that locates value also in human flourishing, meaningful relationships, noble character, individual expression, aesthetic appreciation, and so forth. So long as the evaluation function is aggregative (does not count one person’s welfare for less just because there are many other persons in existence who also enjoy happy lives) and is not relativized to a particular point in time (no time-discounting), the conclusion will hold. These conditions can be relaxed further. Even if the welfare function is not perfectly aggregative (perhaps because one component of the good is diversity, the marginal rate of production of which might decline with increasing population size), it can still yield a similar bottom line provided only that at least some significant component of the good is sufficiently aggregative. Similarly, some degree of time-discounting future goods could be accommodated without changing the conclusion.[7] III. THE CHIEF GOAL FOR UTILITARIANS SHOULD BE TO REDUCE EXISTENTIAL RISK In light of the above discussion, **it may seem as if a utilitarian ought** to **focus** her efforts **on accelerating technological development**. The payoff from even a very slight success in this endeavor is so enormous that it dwarfs that of almost any other activity. We appear to have a utilitarian argument for the greatest possible urgency of technological development. **However, the true lesson is a different one. If** what **we are concerned with** is (something like) **maximizing the expected number of worthwhile lives** that we will create, then in addition to the opportunity cost of delayed colonization, **we have to take into account the risk of failure to colonize at all. We might fall victim to an existential risk**, one § Marked 19:53 § where an adverse outcome would either annihilate Earth-originating intelligent life or permanently and drastically curtail its potential.[8] **Because the lifespan of galaxies is measured in billions of years, whereas the time-scale of any delays** that we could realistically affect **would** rather **be measured in years or decades, the consideration of risk trumps the consideration of opportunity cost**. For example, **a single percentage point of reduction of existential risks would be worth** (from a utilitarian expected utility point-of-view) **a delay of over 10 million years**. Therefore, if our actions have even the slightest effect on the probability of eventual colonization, this will outweigh their effect on when colonization takes place. For standard utilitarians, **priority number one**, two, three and four **should** consequently **be to reduce existential risk**. The utilitarian imperative “Maximize expected aggregate utility!” can be simplified to the maxim “Minimize existential risk!”.

**3**

### Extinction Outweighs: F/L

#### Extinction outweighs everything else—there is no recovering from it (includes climate change)

Anders **Sandberg** et al., James Martin Research Fellow, Future of Humanity Institute, Oxford University, "How Can We Reduce the Risk of Human Extinction?" BULLETIN OF THE ATOMIC SCIENTISTS, 9-9-**08**, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction, accessed 5-2-10.

Such remote risks may seem academic in a world plagued by immediate problems, such as global poverty, HIV, and climate change. But as intimidating as these problems are, they do not threaten human existence. In discussing the risk of nuclear winter, Carl Sagan emphasized the astronomical toll of human extinction: A nuclear war imperils all of our descendants, for as long as there will be humans. Even if the population remains static, with an average lifetime of the order of 100 years, over a typical time period for the biological evolution of a successful species (roughly ten million years), we are talking about some 500 trillion people yet to come. By this criterion, the stakes are one million times greater for extinction than for the more modest nuclear wars that kill "only" hundreds of millions of people. There are many other possible measures of the potential loss--including culture and science, the evolutionary history of the planet, and the significance of the lives of all of our ancestors who contributed to the future of their descendants. Extinction is the undoing of the human enterprise. There is a discontinuity between risks that threaten 10 percent or even 99 percent of humanity and those that threaten 100 percent. For disasters killing less than all humanity, there is a good chance that the species could recover. If we value future human generations, then reducing extinction risks should dominate our considerations. Fortunately, most measures to reduce these risks also improve global security against a range of lesser catastrophes, and thus deserve support regardless of how much one worries about extinction.

### K Ans: Security 1AR—Predictions Work

**Predictions are feasible. They can be made logically from empirical evidence.**

**Chernoff, 2009**

[Fred, Prof. IR and Dir. IR – Colgate U., European Journal of International Relations, “Conventionalism as an Adequate Basis for Policy-Relevant IR Theory”, 15:1, Sage]

For these and other reasons, **many social theorists and social scientists have come to the conclusion that prediction is impossible.** Well-known IR reflexivists like Rick Ashley, Robert Cox, Rob Walker and Alex Wendt have attacked naturalism by emphasizing the interpretive nature of social theory. Ashley is explicit in his critique of prediction, as is Cox, who says quite simply, ‘It is impossible to predict the future’ (Ashley, 1986: 283; Cox, 1987: 139, cf. also 1987: 393). More recently, Heikki Patomäki has argued that ‘qualitative changes and emergence are possible, but predictions are not’ defective and that the latter two presuppose an unjustifiably narrow notion of ‘prediction’.14 **A determined prediction sceptic may continue to hold that there is too great a degree of complexity of social relationships** (which comprise ‘open systems’) **to allow any prediction whatsoever. Two very simple examples may** circumscribe and help to **refute** a radical variety of **scepticism.** **First, we all make reliable social predictions and do so with great frequency. We can predict with high probability that a spouse, child or parent will react to** certain well-known **stimuli** that we might supply, **based on extensive past experience**. More to the point of IR prediction – scepticism, **we can imagine a young child** in the UK **who** (perhaps at the cinema) (1) **picks up** a bit of 19th-century British **imperial lore** thus gaining a sense of the power of the crown, without knowing anything of current balances of power, (2) **hears some stories about the US–UK invasion of Iraq** in the context of the aim of advancing democracy, **and** (3) **hears** a bit **about communist China and democratic Taiwan**. **Although the specific term ‘preventative strike’ might not enter into her lexicon, it is possible to imagine the child, whose knowledge is thus limited, thinking that if democratic Taiwan were threatened by China, the UK would** (possibly or probably) **launch a strike on China to protect it**, much as the UK had done to help democracy in Iraq. In contrast to the child, readers of this journal and **scholars who study the world more thoroughly have factual information** (e.g. **about the relative military and economic capabilities of the UK and China**) **and hold some cause-and-effect principles** (such as that states do not usually initiate actions that leaders understand will have an extremely high probabi

lity of undercutting their power with almost no chances of success). Anyone who has adequate knowledge of world politics would predict that the UK will not launch a preventive attack against China. **In the real world, China knows that for the next decade and well beyond the UK will not intervene militarily in its affairs**. While Chinese leaders have to plan for many likely — and even a few somewhat unlikely — future possibilities, they do not have to plan for various implausible contingencies: they do not have to structure forces geared to defend against specifically UK forces and do not have to conduct diplomacy with the UK in a way that would be required if such an attack were a real possibility. **Any rational decision-maker in China may use some cause-and-effect (probabilistic) principles along with knowledge of specific facts relating to the Sino-British relationship to predict** (P2) **that the UK will not land its forces on Chinese territory** — even in the event of a war over Taiwan (that is, the probability is very close to zero). The statement P2 qualifies as a prediction based on DEF above and counts as knowledge for Chinese political and military decision-makers. A Chinese diplomat or military planner who would deny that theory-based prediction would have no basis to rule out extremely implausible predictions like P2 and would thus have to prepare for such unlikely contingencies as UK action against China. A reflexivist theorist sceptical of ‘prediction’ in IR might argue that the China example distorts the notion by using a trivial prediction and treating it as a meaningful one. But **the critic’s temptation to dismiss its value stems precisely from the fact that it is so obviously true. The value to China of knowing that the UK is not a military threat is significant.** The fact that, under current conditions, any plausible cause-and-effect understanding of IR that one might adopt would yield P2, that the ‘UK will not attack China’, does not diminish the value to China of knowing the UK does not pose a military threat. A critic might also argue that DEF and the China example allow non-scientific claims to count as predictions. But **we note that while physics and chemistry offer precise ‘point predictions’**, other natural sciences, **such as seismology, genetics or meteorology, produce predictions that are often much less specific**; that is, they describe the predicted ‘events’ in broader time frame and typically in probabilistic terms. We often find predictions about the probability, for example, of a seismic event in the form ‘some time in the next three years’ rather than ‘two years from next Monday at 11:17 am’. DEF includes approximate and probabilistic propositions as predictions and is thus able to catagorize as a prediction the former sort of statement, which is of a type that is often of great value to policy-makers. **With the help of these ‘non-point predictions’** coming from the natural and the social sciences, **leaders are able to choose the courses of action** (e.g. more stringent earthquake-safety building codes, or procuring an additional carrier battle group) **that are most likely to accomplish the leaders’ desired ends. So while ‘point predictions’ are not what political leaders require in most decision-making situations, critics of IR predictiveness often attack the predictive capacity of IR theory for its inability to deliver them**. **The critics thus commit the straw man fallacy by requiring a sort of prediction in IR (1) that few, if any, theorists claim to be able to offer, (2) that are not required by policy-makers for theory-based predictions to be valuable, and (3) that are not possible even in some natural sciences**.15 The range of theorists included in ‘reflexivists’ here is very wide and it is possible to dissent from some of the general descriptions. From the point of view of the central argument of this article, there are two important features that should be rendered accurately. One is that reflexivists reject explanation–prediction symmetry, which allows them to pursue causal (or constitutive) explanation without any commitment to prediction. The second is that almost all share clear opposition to predictive social science.16 The reflexivist commitment to both of these conclusions should be evident from the foregoing discussion.

### TPA DA: Impact Overview

#### C. Timeframe --- global trade is crumbling now—TPA is key to prevent protectionism

Joshua Kurlantzick, “Farewell to the Age of Free Trade,” BLOOMBERG BUSINESSWEEK, 12—12—13, [www.businessweek.com/articles/2013-12-12/global-trade-in-retreat-world-economys-future-depends-on-revival](http://www.businessweek.com/articles/2013-12-12/global-trade-in-retreat-world-economys-future-depends-on-revival)

Since the end of World War II and the birth of the modern global economy, business leaders have come to accept an iron law: International trade always expands faster than economic growth. Between the late 1940s and 2013, that assumption held true. Trade grew roughly twice as fast as the world economy annually, as fresh markets opened up, governments signed free-trade pacts, new industries and consumers emerged, and technological advances made international trade cheaper and faster. Now this iron law may be crumbling. Over the past two years, international trade has grown so slowly that it has fallen behind the growth of the world economy, which itself is hardly humming. Major potential trade deals, such as the proposed Transatlantic Trade and Investment Partnership between Europe and North America, are at risk of falling through. At an early December meeting in Bali, representatives of the 159 members of the World Trade Organization agreed to move forward with basic trade facilitation measures but failed to reach any consensus on what should be on the table for the next WTO round, instead just deferring action on substantial items. Despite such worrying trends, many economists and trade specialists seem unfazed. In its latest research report, HSBC (HSBC) predicted that global trade will continue expanding by about 8 percent annually for the next two decades, outstripping the world’s economic expansion. Such optimism is misplaced. Expectations that emerging markets could boom for decades haven’t come true. Advances in technology over the past five years have facilitated the rise of state capitalism and made it easier for companies to stay in their borders. And unlike at just about any time in the past six decades, the political leadership of almost every major economy is weak, making it easier for protectionism to flourish. The era of free trade as the world has known it is dangerously close to coming to an end. The belief that trade flows would inevitably increase was based on two assumptions: Emerging markets still had huge space to expand, and new technologies would make businesses more interconnected. These ideas still power reports such as HSBC’s forecast. But they appear to be wrong. Today’s technological advances don’t necessarily lead to economic integration. The latest breakthrough in manufacturing, 3D printing, makes it easier for companies to keep their design and initial production work in-house and cut out suppliers—which reduces trade, because it removes incentives to outsource later rounds of manufacturing overseas. The coming breakthrough in many science-based industries—such as synthetic biology, in which living forms are created from strands of DNA—will similarly create pressure for companies to keep operations in-house. Already, many corporations are coming home: Cross-border investment inflows fell by 18 percent in 2012 and probably will drop again in 2013. Far from creating a long tail, globalization and the Internet have instead made economies of scale more important to companies’ survival. That has prompted consolidation in industries from telecommunications to oil to mining, allowing many of these industries to become dominated by giant state-owned companies from countries such as China, Russia, and Brazil. These state-owned enterprises are hardly forces for free trade: They often crush entrepreneurs in their own societies, and they often push for protectionist barriers, not against them. As for the big emerging markets, they aren’t proving as resilient as expected, despite their huge consumer classes. China’s economy has slowed only marginally, but every other major emerging economy, from India to Brazil, has seen its growth drop precipitously the past two years. (When all the figures were finally in and calculated this summer, it turned out that Brazil’s economy grew by only 0.9 percent in 2012, far less than Brazilian leaders and economists had forecast.) Many of these, such as India, have based their hopes for growth on services, not the export-oriented manufacturing that enriched Japan and the Asian tiger economies—and before them Britain, the U.S., and other countries. As economists Amartya Sen and Jean Drèze note, services not only employ fewer people than manufacturing, but they also face far more trade barriers by developed nations than manufactured exports. These challenges might be surmountable if a stronger international consensus in favor of free trade existed. Over the past 60 years, at least one major economy was able to take the lead in advancing the global trade agenda. Today, however, every prominent trading economy is too consumed by problems at home. Weakened by the shaky rollout of health-care reform, President Obama faces a hostile Congress that has little inclination to support either the administration’s proposed free-trade agreement with Asia, called the Trans-Pacific Partnership (TPP), or a U.S.-European trade pact. China’s top leaders are still trying to consolidate power and address domestic challenges such as land reform. Britain is consumed with austerity, Japan is embarking on contentious economic reforms, and Germany is constrained by its history and Berlin’s consensual politics. Reports of U.S. spying on top European leaders have caused politicians across the European Union—already skeptical of a trans-Atlantic trade zone because of concerns that many European industries would be swamped—to call for trade negotiations with the U.S. to be cut off. As of early December, negotiations have resumed, but the prospects for a deal remain highly uncertain.

#### Econ = Poverty and inequality – answers their turns

**Vasquez**, director of the Project on Global Economic Liberty at the Cato Institute, **2001** [Ian, Ending Mass Poverty, September, Cato Institute, http://www.cato.org/research/articles/vas-0109.html]

Economic growth is the "only path to end mass poverty," says economist Ian Vásquez, who argues that redistribution or traditional poverty reduction programs have done little to relieve poverty. Vásquez writes that the higher the degree of economic freedom -- which consists of personal choice, protection of private property, and freedom of exchange -- the greater the reduction in poverty. Extending the system of property rights protection to include the property of poor people would be one of the most important poverty reduction strategies a nation could take, he says.

The historical record is clear: the single, most effective way to reduce world poverty is economic growth. Western countries began discovering this around 1820 when they broke with the historical norm of low growth and initiated an era of dramatic advances in material well-being. Living standards tripled in Europe and quadrupled in the United States in that century, improving at an even faster pace in the next 100 years. Economic growth thus eliminated mass poverty in what is today considered the developed world. Taking the long view, growth has also reducedpoverty in other parts of the world: in 1820, about 75 percent of humanity lived on less than a dollar per day; today about 20 percent live under that amount.

Even a short-term view confirms that the recent acceleration of growth in many developing countries has reduced poverty, measured the same way. In the past 10 years, the percentage of poor people in the developing world fell from 29 to 24 percent. Despite that progress, however, the number of poor people has remained stubbornly high at around 1,200 million. And geographically, reductions in poverty have been uneven.

### TPA Uq: Will Pass—Top of Docket

#### Obama stepping up effort-TPA is top of the docket---will be debated this month

Inside U.S. Trade 12/20/13

HEADLINE: Jarrett Predicts Obama Will Succeed In Getting TPA; NAM Rallies Members

The leaders of the trade committees, with the exception of House Ways and Means Ranking Member Sander Levin (D-MI), are planning to introduce a new fast-track bill, also known as Trade Promotion Authority (TPA) early in January (see related story). Little is know about the substance of the bill, but the National Association of Manufacturers (NAM) this week informally called its members to help the fight for TPA, according to an internal e-mail sent to companies. "Opponents of opening trade opportunities are already sending a loud message to lawmakers," the e-mail says."Washington needs to hear from manufacturers TODAY." The e-mail says that a fast-track bill will "likely be introduced and debated in Congress" in January. "Make sure that you and your company are talking about the importance of TPA, and are gearing up to send a strong message to lawmakers on behalf of manufacturers worldwide," the e-mail says. The e-mail then provides a link to contact senators and House members saying "The Time Is Now For Trade Promotion Authority." It also tells members that NAM will issue an official "call to action" once TPA legislation is introduced. After this week's cabinet-level meeting, a senior administration official told reporters the administration plans to step up its outreach to Congress in an effort to build support for fast-track. The outreach will seek to clear up misconceptions by lawmakers, many of whom have never taken such a trade vote because they were elected after the 2002 fast-track renewal, according to the official.

### Thumper Ans: EUB

#### Reid is the one pushing in the Senate

Daniel Horowitz, THE BLAZE, 1—6—14, http://www.theblaze.com/contributions/theyre-back-congress-reconvenes-and-is-poised-to-rob-you-blind/

In an effort to distract from the job losses due to Obamacare, Senate Democrats plan to vote on a bill to retroactively extend the unpaid-for 73 weeks of Unemployment Insurance benefits until March 31. The Senate will vote for cloture on S. 1845, which is sponsored by Sen. Jack Reed (D-R.I.), late Monday evening. As is often the case with the current membership of the Senate, every Democrat is likely to stick with their leadership on this vote. There is already one Republican co-sponsor of the bill, Sen. Dean Heller (R-Nev.). Sen. Susan Collins (R-Maine) is also likely to support the measure. Conservative Outlook If GOP leadership blithely watches Democrats pick off members of their conference, Harry Reid will easily win 60 votes for cloture. Instead, they should aggressively counterpunch by whipping against cloture unless Democrats agree to add some form of Obamacare repeal to the bill. Especially after Democrats abolished the filibuster on judicial nominees last year, no Republican should be eager to surrender the filibuster on legislative matters.

### Thumper Ans: Health Care

#### Obama’s playing a long-term game with health care that will translate into a political win – he won’t focus too much on it now

**The Root 1/3**/14 [David Swerdlick, associate editor, “Obama’s Last Year Wasn’t as Bad as They Say”, <http://www.theroot.com/articles/politics/2014/01/five_things_obama_got_right_last_year.html>]

Unless you opted for your own news blackout during the holiday season, by now you’ve probably read one of the many year-end recaps that described 2013 as President Barack Obama’s worst year. If not, just read here, here, here, here and here.¶ Reviews were bad, with even Chris Matthews—of “thrill going up my leg when Obama speaks” fame—lamenting that last year “feels like the seventh or eighth year of a presidency,” not the fifth.¶ The overall gist, of course, is that between Edward Snowden’s National Security Agency leaks, the administration’s clumsy messaging on Syria, Congress’ inability to enact background-check legislation and the lousy rollout of Obamacare—including PolitiFact’s naming “If you like your health care plan, you can keep it” as its lie of the year—the president heads into 2014 digging himself out of a hole.¶ Indeed, the last 12 months were far from stellar.¶ The president and his key surrogates have failed to capitalize on an improving economic picture, with their seeming inability to proactively communicate to the American electorate where they’re trying to take it from day to day and year to year. And as my The Root colleague Keli Goff explains, he’s still battling persistently high unemployment, particularly among African Americans.¶ But the first year of his second term wasn’t quite as bad as everyone says. Background-check legislation didn’t happen, but that wasn’t on Obama’s agenda until the Sandy Hook massacre in Newtown, Conn. Immigration reform only got through the Senate, but it’s not completely dead in the House. His approval numbers took a hit, but in last week's Gallup poll, they made a modest five-point rebound.¶ He deserves criticism, sure, but also some credit. Here are five good moves he made last year:¶ Syria¶ It wasn’t pretty watching Obama send Secretary of State John Kerry out to make a full-throated case for military action in Syria, only to pull back days later and call for Congress to weigh in—we’re used to seeing commanders in chief go to war without reservation. But you could argue that one of the main reasons Obama was elected in the first place was that Americans wanted a president who was willing to pull back from the brink if that was what circumstances called for.¶ The Government Shutdown¶ There’ll be more fights ahead between the White House and Congress, but the president scored a win (later squandered) when he forced House Republicans to blink first in the standoff that led to the government shutdown, and got—temporarily, at least—Washington’s political fever to break. When the dust settled, the path cleared for Sen. Patty Murray (D-Wash.) and Rep. Paul Ryan (R-Wis.)—budget chairs in their respective legislative chambers—to come to terms on a deal.¶ Janet Yellen¶ The same president who tripled the number of women on the Supreme Court went on to nominate respected economist and current Federal Reserve Vice Chair Janet Yellen as the Fed’s first female chair, and she's expected to be confirmed by the Senate this month.¶ Civil Rights¶ He hasn’t really done much that’s new on gay civil rights, but over the course of his tenure repealing “Don’t ask, don’t tell,” and Obama's public support of same-sex marriage helped make the high court’s decisions to strike down provisions of the so-called Defense of Marriage Act and not to reinstate California’s Proposition 8 seem inevitable.¶ Obamacare (Seriously)¶ And, OK, for now, keep Obamacare in the fail column. For reasons that can’t adequately be explained, team Obama—including Sec. Kathleen Sebelius and the president himself—kept their eye off the ball for four years while overpaid contractors botched a rollout that The Root’s development team could have handled in their sleep with one hand tied behind their keyboards.¶ Policywise, the Affordable Care Act works—and premiums come down—only if enough healthy enrollees sign up to offset the cost of covering those who already need care. That hasn’t happened yet, and we won’t know if it does for a year. ¶ Without cost savings to individuals, or a bending of the infamous “cost curve,” the law is a loser. ¶ On the politics, though, Obama is playing a longer game. As of this week, more than 6 million people have signed up for Medicaid or for coverage on the ACA exchanges—nowhere near the planned enrollment goals, but not the fiasco of two months ago. To the degree that he’s failing, he’s doing it while trying to bring health care to the uninsured. In time, politically, that might wind up being a win.

#### GOP action is just empty gesture

Daniel Horowitz, THE BLAZE, 1—6—14, http://www.theblaze.com/contributions/theyre-back-congress-reconvenes-and-is-poised-to-rob-you-blind/

On the one hand, it is welcome news that Republicans will open the year with its first focus directed towards the failures of Obamacare. However, Republicans need to be careful not to focus too much on the website while ignoring the broad systemic problems of government-run health care, along with the higher costs and job losses associated with the onerous mandates. They must also make sure that these stand-alone votes, which will never become law, are not used as straw men to replace the only real means of fighting Obamacare – attaching riders to must-pass legislation, such as the upcoming debt ceiling increase. Undoubtedly, the website will be fixed in the coming months and millions of people will begin to register for health plans. This will not represent success. Quite the contrary, millions of people who will lose their health insurance will have no choice but to apply for these sub-par and expensive taxpayer-subsidized plans. Hence, if we focus exclusively on the website and the lackluster enrollment numbers, we will distract attention from the real problems and play into the hands of Democrats. This week’s legislative assault on Obamacare will be nothing more than a vacuous gesture unless Republicans begin beating the drum against raising the debt ceiling until Democrats agree not to fund one more penny of Obamacare with new debt.

### TPA Uq: Will Pass—Obama Pushing 2NC

#### TPP is a top Obama priority

Dave Boyer, “Trans-Pacific Trade Pact Hit by Hill Gridlock, Tough Talks,” WASHINGTON TIMES, 1—2—14, p. A3.

White House press secretary Jay Carney said TPP "remains a top priority of the president because of the positive economic benefits that come from it." A week before leaving for his Christmas vacation in Hawaii, Mr. Obama held a meeting on the status of the Asia trade talks with Cabinet members and other top advisers at the White House.¶ One of the topics at that meeting was Mr. Obama's desire to obtain "fast-track" trade promotion authority (TPA) from Congress, where many Democrats and some Republicans oppose such a move. The fast-track authority expired in 2007. Under fast-track authority, lawmakers cannot amend or filibuster trade deals; they can only vote to approve or reject them.

#### Trade is most important --- Obama sees it as his new legacy issue

Stelzer, 12/15 --- business adviser and director of economic policy studies at the Hudson Institute (12/15/2013, Irwin, The Sunday Times, “Obama pins his legacy on trade, not healthcare,” Factiva))

"The action is in the regionals," the University of California's Kati Suominen tells the press. And whether that "action" reduces trade barriers will depend heavily on America, the world's biggest market — putting Obama at centre stage, with Congress waiting in the wings. The president dearly wants to make successful conclusions of these regional negotiations part of his legacy. He is convinced freer trade would spur American exports, accelerate economic growth and create jobs. His hope that Obamacare would be an enduring legacy is fading. Bringing free trade to the world might have to do

### TPA IL: A2 "PC Fails (Klein)"

#### History proves that capital is effective --- backroom negotiations can produce agreements

Mandel, 12 --- Assistant Editor of Commentary magazine (Seth, 3/23/2012, “Contentions Lessons of Presidential Persuasion: Be the Commander-In-Chief,” http://www.commentarymagazine.com/2012/03/23/presidential-persuasion-commander-in-chief-obama-reagan-clinton/)

I want to offer Klein one more note of optimism. He writes:

Back-room bargains and quiet negotiations do not, however, present an inspiring vision of the Presidency. And they fail, too. Boehner and Obama spent much of last summer sitting in a room together, but, ultimately, the Speaker didn’t make a private deal with the President for the same reason that Republican legislators don’t swoon over a public speech by him: he is the leader of the Democratic Party, and if he wins they lose. This suggests that, as the two parties become more sharply divided, it may become increasingly difficult for a President to govern—and there’s little that he can do about it.

I disagree. The details of the deal matter, not just the party lines about the dispute. There is no way the backroom negotiations Clinton conducted with Gingrich over social security reform could have been possible if we had prime ministers, instead of presidents. Thepresident possesses political capital Congress doesn’t. History tells us there are effective ways to use that capital. One lesson: quiet action on domestic policy, visible and audible leadership on national security.

#### PC is key and effective—Klein ignores historical examples

**Drum 12** (Kevin, political blogger for Mother Jones, “Presidents and the Bully Pulpit”, http://motherjones.com/kevin-drum/2012/03/presidents-and-bully-pulpit, CMR)

I also think that Ezra doesn't really grapple with the strongest arguments on the other side. For one thing, although there are examples of presidential offensives that failed (George Bush on Social Security privatization), there are also example of presidential offensives that succeeded(George Bush ongoing to war with Iraq). The same is true for broader themes. For example, Edwards found that "surveys of public opinion have found that support for regulatory programs and spending on health care, welfare, urban problems, education, environmental protection and aid to minorities increased rather than decreased during Reagan’s tenure." OK. But what about the notion that tax cuts are good for the economy? The public may have already been primed to believe this by the tax revolts of the late '70s, but I'll bet Reagan did a lot to cement public opinion on the subject. And the Republican tax jihad has been one of the most influential political movements of the past three decades.

More generally, I think it's a mistake to focus narrowly on presidential speeches about specific pieces of legislation. Maybe those really don't do any good. But presidents do have the ability to rally their **own** troops, and that matters. That's largely what Obama has done in the contraception debate. Presidents also have the ability to set agendas. Nobody was talking about invading Iraq until George Bush revved up his marketing campaign in 2002, and after that it suddenly seemed like the most natural thing in the world to a lot of people.

Beyond that, it's too cramped to think of the bully pulpit as just the president, just giving a few speeches. It's more than that. It's a president mobilizing his party and his supporters and doing it over the course of years. That's harder to measure, and I can't prove that presidents have as much influence there as I think they do. But I confess that I think they do. Truman made containment national policy for 40 years, JFK made the moon program a bipartisan national aspiration, Nixon made working-class resentment the driving spirit of the Republican Party, Reagan channeled the rising tide of the Christian right and turned that resentment into the modern-day culture wars, andGeorge Bush forged a bipartisan consensus that the threat of terrorism justifies nearly any defense. It's true that in all of these cases presidents were working with public opinion, not against it, but I think it's also true that different presidents might have shaped different consensuses.