### Plan

The United States Federal Government should statutorily restrict the use of credibility as a national interest justification for Presidential WPA to introduce armed forces into hostilities.

### Credibility Advantage

#### Credibility justification for war powers authority allow arbitrary executive declarations and threats to trap us into credibility wars

Sitaraman 2014 (Ganesh Sitaraman, Assistant Professor of Law at Vanderbilt, “Credibility and War Powers,” 127 Harvard Law Review, F. 123, http://www.harvardlawreview.org/issues/127/january14/forum\_1024.php)

The OLC’s policy argument that reliance on the credibility of the United Nations Security Council is a legitimate “national interest” that justifies presidential action without prior congressional approval is troubling. Political science research, basic logical reasoning about credibility, and concerns about future OLC expansion of the “credibility” category all suggest that credibility arguments should be left out of the constitutional law of war powers. ¶ First, research in political science has demonstrated that credibility arguments are logically problematic and without serious historical support. Constitutional doctrine should not rest on such logically and factually flawed premises. All the other justifications for independent presidential authority have at least arguable policy justifications. The defensive interests in repelling attacks and protecting American lives and property abroad rely on the country’s obligation to protect its citizens. The regional interest, while certainly broader and opaque in its boundaries, can be justified on policy grounds. When the Bosnia Opinion (1995) referenced the American national interest in European security and stability, it was in the context of the recent end of a half-century-long Cold War that divided Europe — which itself was the product of a half-century defined by two world wars that began in Europe and led to American involvement.55 Case by case, regional arguments can be contested, but they at least offer the possibility of a policy justification. Credibility arguments are on a far weaker foundation. ¶ To be sure, one might argue that that there is a difference between national credibility, which political scientists have investigated, and the credibility of international institutions. While the actor is different, the distinctions are minor. An international institution’s likelihood of acting in any given situation is understood ex ante to be a function, at least in part, of its procedures and decision rules. The U.N. Security Council, for example, is famously limited by the permanent five’s veto powers. If anything, this fact means that past actions and reputational credibility theories will almost invariably be weaker when applied to the United Nations, as compared to a single country, because action depends on multinational agreement. ¶ Second, the United States interest in the “credibility” of the U.N. Security Council is questionable on its own terms. The Libya Opinion states that the United States is not required to act when the Security Council has authorized action.56 The OLC has also explicitly recognized that the United States may use force without Security Council authorization.57 The opinions thus allow the United States to abandon the credibility of the Security Council if the United States does not want to use force. This might not be too troubling, as it is surely possible for the President to have authority to act, but choose not to use it. But for those who defend the U.N. credibility argument, it should be extremely troubling that the United States can abandon the credibility of the Security Council if the U.N. does not authorize force and the United States wants to act anyway. Because the U.N. Charter’s provisions limit the use of force in the absence of self-defense or a Security Council resolution,58 U.S. action without U.N. authorization would actually undermine the United Nations’ credibility. In other words, OLC is trying to have it both ways. ¶ Third, the presence of credibility arguments in OLC opinions creates a risk that future opinions will build on these flawed foundations — expanding credibility from the U.N. to the nation’s credibility more generally. The Kosovo case provides an example of creep in precedent. In the Libya Opinion, OLC referred to the 1999 Kosovo action as a “precedent.” In public discourse, Kosovo was justified in part on the credibility of NATO (there was no U.N. resolution for Kosovo).59 If the Kosovo action is now “precedent,” it is possible that future OLC lawyers will expand the credibility justification to NATO, other international organizations, or maybe even to the credibility of the United States’ threats. The expansion of the credibility argument in constitutional doctrine is troubling because it could allow Presidents to bootstrap themselves into war. If the president knows that she can act independently to engage America in a conflict if there is a credibility interest at stake, then she has an incentive to create credibility interests. A strategic president could decide to declare “red lines” in order to build for herself the constitutional authority necessary to enforce those “red lines” in the future.61 ¶ While conscientious executive branch lawyering could obviously stop the country from sliding down this slippery slope, there is nonetheless a risk that future OLC opinions will expand credibility to encompass such situations.62 Indeed, the Syria case suggests that the “national interests” prong is generally subject to slippage.63 The U.N. Security Council did not authorize action in Syria and the Obama Administration did not claim that U.S. persons or property were at risk. Still, President Obama seemed confident he could act without congressional authorization. Professor Harold Koh has offered a defense of the use of force in Syria, absent prior congressional authorization. Citing the Bosnia (1995) and Libya (2011) opinions, he identifies “promoting regional stability and preventing destruction of the near-century-old ban on chemical weapons” as sufficient national interests.64 It is striking, however, that the latter interest is not referenced specifically in either of the opinions Koh cites. It is also worth noting that Koh’s argument is not a credibility argument, as it is defined here. The literature in political science — and the argument here — is about the credibility of threats, not the robustness of international norms (even if the word “credibility” is used to describe robustness). There may be non-credibility reasons to enforce international norms and one could debate whether those reasons are sufficient to justify unilateral presidential action,65 but the point here is simply to bury credibility arguments. Given the possibility of slippage from current doctrine, credibility arguments are a loaded gun, ready to be fired by hawkish presidents who have willing executive branch lawyers. ¶ A better approach would be for OLC to simply eliminate credibility from the “national interests” that justify presidential power to use force, in the absence of congressional authorization. This is not to say that credibility could not be used in rhetoric or as a policy justification (although its use should probably be viewed with skepticism, given the political science research). Rather, the credibility justification is sufficiently problematic that presidents should have to get congressional authorization to use force first.66 Note also that removing credibility arguments from constitutional doctrine would not eliminate the United Nations from legal debates about the use of force. Security Council authorizations are still required as a matter of international law (outside self-defense). And if the United States wants to act outside of that constraint, presidents would still have an incentive to obtain U.N. authorization to build support in domestic and international public opinion. Even more indirectly, of course, presidents could always argue that the U.N. Security Council’s authorization provides a signal of how important the underlying policy issues are. But for purposes of constitutional authority, presidents would have to argue that they have new independent authorities to use force (such as enforcing U.N. resolutions or supporting international norms), resurrect legal arguments about the Take Care Clause and collective security treaties, or take their case to Congress — not rely on the questionable interest in the United Nations or the country’s “credibility.” Conclusion¶ Credibility arguments are everywhere in foreign policy. From Truman to Reagan to Obama, presidents have argued that force was necessary not just to advance concrete interests but to preserve credibility. Constitutional lawyers have not been immune to these arguments, with executive branch legal opinions identifying the credibility of the United Nations as a national interest that justifies presidential authority to use force, absent prior congressional approval. However, political scientists have demonstrated that in the context of military threats, credibility arguments are logically problematic and have little historical support. Constitutional lawyers should not rely on these faulty foundations to justify unilateral presidential war powers.

#### Credibility justifications inevitably cause frivolous interventions and war

Fettweis 2013 (Christopher J. Fettweis, assistant professor of national security affairs at the U.S. Naval War College, Ph.D. University of Maryland's Department of Government and Politics, University of Notre Dame, “The Pathologies of Power,” pdf)

First and most obviously, the credibility imperative is almost always employed lo bolster the most hawkish position in any discussion, counseling belligerent responses to all perceived challenges. Failure to react with appropriate strength, its adherents warn, would risk appeasement, disgrace, and far worse crises in the future. The examples are almost too numerous to review: hawks argued U.S. credibility would he irreparably harmed if Washington failed to get involved in Vietnam, and then if it did not stay until the war was won; if it did not¶ use air strikes against the Soviet missiles in Cuba; if it did not respond to Bosnian Serb provocations with sufficient force; if it failed to attack the leaders of the military coup in Haiti in 11)94; and if it did not "stay the course" in Iraq. At other times, the credibility imperative was employed to urge two presidents to use military force to prevent¶ nuclear proliferation in North Korea and to punish the recalcitrant¶ 12¶ Saddam Hussein.' Cheney reveals in his memoirs that he bolstered¶ his case for a strike on Syrian nuclear facilities in 2007 by arguing at a¶ National Security Council meeting that doing so "would enhance our¶ 11¶ credibility in that part of the world. r3 The credibility of the United¶ States is always endangered by inaction and affirmed by action, irrespective of the importance of the issue at hand. The reputation for sound policy judgment never seems to be as important as the reputation for belligerence.¶ The credibility imperative encourages hawkish behavior during negotiations as well, supporting rigidity and decrying concessions as demonstrations of weakness. Only victory can legitimate diplomacy; compromised settlements encourage further challenges and are synonymous with appeasement. Madeleine Albright reported¶ a typical example in her memoirs, explaining that during Bosnia negotiations "the ordinarily hawkish Jamie Rubin urged me to compromise on a particular measure. I glared and said, Jamie, do¶ 11¶ you think we're in Munich?'" ' Washington Post columnist Charles¶ Krauthammer complained that the negotiations that headed off war on the Korean peninsula in 2003 would prove a 'Threat to American credibility everywhere."^ Diplomacy with aggressors is always suspect.¶ Once engaged, credibility can only be maintained by victory, what-¶ ever the cost. As the situation began to deteriorate in Somalia, for¶ example, President Clinton was quite hesitant to pull U.S. troops out.¶ "Our own credibility with friends and allies would be severely dam-aged," he said. "Our leadership in world affairs would be undermined¶ at ihc very time when people are looking to America to help pro-¶ mote peace and freedom in the post-Cold War world. Atid all around¶ the world, aggressors, thugs and terrorists will conclude that the best¶ way to get us to change our policies is to kill our people, It would be¶ 6¶ open season 011 Americans."4 A decade later, Secretary of Defense¶ Donald Rumsfeld warned that if the United States withdrew "prema-¶ turely" from Iraq "the enemy would tell us to leave Afghanistan and¶ then withdraw from the Middle East. And if we left the Middle East,¶ they'd order us and all those who don't share their militant ideology¶ to leave what they call the occupied Muslim lands from Spain to the¶ Philippines." Ultimately, America would be forced "to make a stand¶ 4¶ nearer home." " Kissinger agreed, predicting that "our leadership¶ and the respect accorded to our views on other regional issues from Palestine to Iran would be weakened; the confidence of other major countries - China, Russia, Europe,Japan - in America's potential con- tribution would be diminished. The respite from military efforts would¶ 8¶ be brief before even greater crises descended upon us."i President¶ Bush wrote in his memoirs lhat withdrawal would "embolden a hostile Iran in its pursuit of nuclear weapons," and that "ultimately, our ene-¶ 10¶ mies could use their sanctuary to attack our homeland."¶ States always needs to stay engaged, lest others lose faith in its tenacity and determination, after which greater disasters would follow.¶ The actors employing the imperative arc not always the same - many of the doves of the 1980s became hawks by the 1990s - but their prescription never waivers: those citing credibility always do so on the side of belligerence. The credibility imperative is the rhetorical instrument of the hawk,¶ Hyperbole¶ The credibility imperative tends to produce rather gaudy hyperbole, or at best seriously under explained projections of danger, even in otherwise sober analysts. If the United States were to lose credibility, hawks warn, the floodgates would open to a variety of catastrophes, setting off chains of dominoes that would eventually not only threaten vital interests and make major war necessary but that might somehow lead to the end of the republic itself (or to the death of freedom, or to the destruction of civilization, or other such horrific disaster). Momentum toward the abyss can begin with the smallest demonstration of irresolution, since in the interdependent system there are no inconsequential events. Even tiny slips can begin the United States down the slope toward unmitigated disaster. Quemoy and Matsu might not have seemed terribly important to U .S national security in 1955, for example, but if they fell to the Chinese without response the resulting loss of credibility would enable the communists "to begin their objective of driving us out of the western Pacific, right back to Hawaii and even to the United States," according toJohn Foster Dulles.s° In 1983, President Reagan told Congress that if U.S. efforts failed in Central America, "our credibility would collapse, our alliances would crumble, and the safety of our homeland would be put at jeopardy."¶ 51¶ Five years earlier, he had warned the nation that¶ giving up direct rule of the Panama Canal would embolden America's¶ enemies to the point that it could well lead to a loss "of our own free-¶ 3¶ dom. "5 Michael Ledeen of the American Enterprise Institute argued¶ that the negotiations with China over the return of the crew during the EP-3A mini-crisis with China in 2001 were "part of an enormously important process, in which the survival of the United States may very well he at stake."-^ Four years later former Secretary of Defense Melvin Laird warned that the stakes in Iraq "could not be higher for the continued existence of our own democracy."5-3¶ The hyperbole produced by Vietnam was in a class by itself. Vice¶ President Johnson worried in 1961 that if Saigon were lo fall lo¶ the communists, "the United States must inevitably surrender the¶ Pacific ... and pull back our defenses to San Francisco."55 Secretary¶ of State Dean Rusk wrote that if U.S. commitments became discred-¶ ited through defeat, "the communist world would draw conclusions¶ that would lead to our ruin and almost certainly to a catastrophic¶ 5(i¶ war." As president, Johnson warned his cabinet that "if we run out¶ on Southeast Asia, there will be trouble ahead in every part of the¶ globe - not just in Asia, but in the Middle East and in Europe, in¶ Africa and Latin America. I am convinced that our retreat from this¶ challenge will open the path to W orld W ar III."57 His successor warned¶ in 1965 that defeat would lead to the end of free speech throughout¶ 38¶ the world. While in office, Nixon argued that defeat "would spark¶ violence wherever our commitments help maintain the peace - in the¶ 59¶ Middle East, in Berlin, eventually even in the Western Hemisphere." And Kissinger felt that if South Vietnam were allowed lo fall, it would represent a "fundamental threat, over a period of time, to the secu-¶ 60¶ rity of the United States." Somehow "untold millions would be in¶ 6 jeopardy." '¶ Audiences often prove distressingly willing to accept projections of catastrophe at face value. Rarely are policy makers or analysts asked tojustify these visions or pressed to examine the logic connecting the¶ present decisions to horrifying future disasters. No one thinks to ask¶ why anyone should accept the notion that the loss of credibility would¶ result in such unprecedented, unimaginable consequences. When¶ the United States did not respond with instant belligerence to the¶ seizure of the Pueblo in t g G 8 , Kissinger believed that it "paid for" that¶ seemingly long-forgolten event "in many intangible ways, in demoral- 6a¶ ized friends and emboldened adversaries." No one asked in what ways, or which friends, or which adversaries, or if in general one should allow such imprecise, borderline delusional beliefs to drive policy. In this case and others, the shadow of the future blinded the policy mak- ers to the present.¶ During debates, establishing logical connections is never as impor- tant as establishing the potential, however slim, for catastrophe. The public is meant to accept these warnings on faith alone, with the under- standing that the elite have more experience and expertise in these matters. Pew would oppose the defense of Quemoy and Matsu once it was explained that belligerence would prevent a "catastrophic war."¶ Similarly, it was difficult to argue that aid to the Contras was not in the national interest once il became linked to the survival of N A T O and the safety of "our homeland." When policy makers internalize the impera- tive to remain credible, logic and reason can become casualties of fear.¶ The desire to prevent negative outcomes is prudent; the fear of triggering impossible outcomes is pathological. The credibility imper- ative inspires decision makers to cross the line between the two time and time again. It never seems necessary to explain precisely how the predicted string of catastrophes could occur, since the mere sugges- tion that inaction could lead to ruin is often sufficient to shout down those who object to demonstrations of belligerence in minor crises. Once leaders internalize the belief that threats are interdependent,¶ it seems to follow that the loss of credibility anywhere would be disas- trous for U.S. interests everywhere. Foreign policy is by necessity a worst-case-scenario business, after all, and decision makers are always¶ 6¶ wise to hedge against negative outcomes. 3 Since a loss of credibility offers an imaginable (if implausible) route to national ruin, it seems logical for policy makers to pay limited costs in the present if by doing so they can avoid unlimited disasters in the future. The costs of tomorrow's catastrophe can always be portrayed as outweighing those of today's resolution, George Ball stood little chance against Robert McNamara.¶ It is tempting to doubt the sincerity of those employing hyper- bole. Perhaps at times these decision makers did not really believe what they said, and were instead attempting to instill fear in the public for political purposes. While divining the ulterior motives of political leaders is a popular cottage industry, it is also neces- sarily speculative and tendentious. There is little reason to doubt that those under the spell of the credibility imperative mean exactly what, they say. After all, it is not only leaders who are guilty - ana- lysts and scholars with little political pressure often reach much the same conclusions. Ultimately, whether statements like these are expressions of actual belief or merely attempts to sell unpopular policies to a skeptical public is not as important as the recognition of hyperbole in debates, understanding of its origins, and minimi- zation of its effects.¶ Absence of Tangible Interests¶ "Few parts of the world are intrinsically worth the risk of serious war," noted the intellectual father of the credibility imperative, "but defending them may preserve one's commitment to action in other parts¶ 61¶ of the world and at later times." ' In practice the imperative often¶ encourages action in parts of the world that are manifestly not worthy of the risk involved. In other words, there is a loose, inverse relation- ship between the rhetorical employment of the credibility impera- tive and the presence of vital, tangible national interests. Roosevelt did not make reference to the reputation of the United States when he asked Congress for a declaration of war against Japan in 1941. Similarly, Churchill's stirring speeches rallying his countrymen at their darkest hour did not mention the importance of maintaining the credibility of ihe realm. When a clear national interest is at stake,¶ policy makers have no need to defend (or sell) their actions with ref-¶ erence to the national reputation or credibility. The more tangible¶ the national interest, the smaller the role intangible factors play in¶ either decisions or justifications for policy. The credibility imperative¶ helped the United Slates become willing to use force to keep Korea,¶ Lebanon, Vietnam, Laos, Grenada, El Salvador, Nicaragua, and many¶ other countries that had no measurable impact on the global balance¶ of power in the camp of free nations. "El Salvador doesn't really mat-¶ ter," one of Ronald Reagan's foreign policy advisors admitted in 1981,¶ but "we have to establish credibility because we are in very serious trouble." When credibility is the primaryjustification for action, it should be an indicator that the interest at stake is probably not vital to the United States. Since Washington had no strategic interests in the Balkans in the 1990s, for example, it was forced to invent some, Rather than sell policies based solely on what they were - humanitarian interven- tions - the Clinton administration repeatedly linked the fate of the Muslims of southeastern Europe to the credibility of the United States and NA TO. By doing so, according to Owen Harries, Clinton "man- aged to create a serious national interest in Bosnia where none before existed: an interest, that is, in the preservation of this country's prestige and credibility." The credibility imperative rose to prominence¶ precisely because no tangible U.S. interest in Bosnia existed.¶ Earl Ravenal called this the "paradox of credibility": reputations are unlikely to be formed when states act to preserve vital national interests, since they are compelled to do so. "In order to buttress its credibility," he wrote, "a nation should intervene in the least signifi- cant, the least compelling, and the least rewarding cases, and its reac- tion should be disproportionate to the immediate provocation or the particular interest at stake." In other words, "the less the occasion, the greater the response.”

#### Commitment traps escalate and result in irrational nuclear lash-out to demonstrate resolve

Huntley 2006 (Wade L. Huntley, “Threats All the Way Down: US Strategic Initiatives in a Unipolar World,” Review of International Studies, Vol. 32, No. 1, pg. 49-67)

Less well recognised is that establishing the credibility of extended deterrence threats relies more on an adversary's own assessments than on deterrence threats themselves. Threats can be readily discounted by adversaries, particularly when made in the context of crises; the threatened understand that threateners 'have incentives to misrepresent their intent to increase pressure on the adversary to back down'.49 Tangible evidence of commitment carries more weight. Thus, the United States sought to reinforce deterrence of North Korean attack on South Korea by placing US troops in the line of such an attack, visibly raising the US interests at stake.50 Although specific retaliation threats can be discounted in this fashion, they still bolster deterrence credibility in a more roundabout way, because the act of making the threat increases the 'reputation costs' to the threatener of failing to follow through if deterrence fails. After a biological or chemical attack, US leaders might reckon that failure to respond with nuclear weapons - after having threatened implicitly or explicitly to do so - would undermine the credibility of threats of nuclear response against similar attacks in the future, thereby making such attacks more likely. Avoiding a reputation for 'backing down' would increase incentives for a US president to retaliate in the first instance; thus, 'a president's deterrent threat does not just reflect a commitment to retaliate; it creates a commitment'.51 The adversary's perception of the threatener's potential reputation costs, separate from the threat itself, raises the adversary's belief that the retaliation would be forthcoming, bolstering deterrence. However, this commitment is also a trap because the mechanism of credibility - desire by the threatener to credibly make similar threats in the future - is detached from the circumstances at hand. The commitment to a nuclear threat would tend to induce a nuclear response in the event deterrence fails, even if the proximate situation does not warrant such escalation. 'The greatest danger created by US nuclear threats is that they provide an incentive to respond with nuclear weapons, for the sake of maintaining the reputation for honoring one's commitments, to attacks that otherwise would be responded to with conventional retaliation only'.52

#### We control escalation ceiling: US involvement in foreign conflicts is a force multiplier

Gholz Press and Sapolsky 1997 (Eugene Gholz and Daryl G. Press, doctoral candidates in the Department of Political Science at the Massachusetts Institute of Technology, and Harvey M. Sapolsky, Professor of Public Policy and Organization in the Department of Political Science at M.I.T. and Director of the M.I.T. Defense and Arms Control Studies, Spring 1997, “Come Home America- The Strategy of Restraint in the Face of Temptation,” International Security, Vol. 21, No. 4)

The larger long-term cost of selective engagement is the risk of involvement in faraway great power wars. Great power conflicts will continue to be a rare occurrence, but when they happen, the United States is much better off staying as far away from the combatants as possible. World War II resulted in the deaths of 400,000 Americans, many times that number wounded, and nearly 40 percent of GDP devoted to defense (compared to 4 percent today).76 A new great power conflict, with the possibility of nuclear use, might exact even higher costs from the participants. World War II was fought to prevent the consolidation of Europe and Asia by hostile, fanatical adversaries, but a new great power war would not raise that specter. The biggest cost of selective engagement is the risk of being drawn into someone else's faraway great power war. The global economy may be disrupted by war, depending on who is in- volved, but even in the worst case, the costs would be manageable. Trade accounts for roughly 20 percent of the American economy,77 and sudden, forced autarky would be devastating for American prosperity. But no great power war could come close to forcing American autarky: essentially all goods have substitute sources of supply at varying marginal increases in cost. Furthermore, wars never isolate the fighting countries completely from external trade. Some dislocation is a real possibility, but these short-term costs would not justify the risks of fighting a great power war. The risk of nuclear escalation is a reason to worry about great power war, but it is a highly suspect reason to favor a military policy that puts U.S. forces between feuding great powers. Nuclear weapons may not be used in a future great power war; the fear of retaliation should breed great caution on the part of the belligerents.78 But the larger point is that the possibility of a faraway nuclear exchange is precisely the reason that America should keep its military forces out of other country's disputes.79 An Indo-Pakistani nuclear war would be a terrible thing, but it makes no sense to get in the middle. Distant wars would be costly, but not nearly as costly as the solution that selective engagers propose.

#### Jettisoning the cred justification best solves global security

Walt 2012 (Stephen M. Walt, September 11, 2012, “Why are U.S. leaders so obsessed with credibility?,” Foreign Policy, http://www.foreignpolicy.com/posts/2012/09/11/the\_credibility\_fetish)

I call this error the "credibility fetish." U.S. leaders have continued to believe that our security depends on convincing both allies and adversaries that we are steadfast, loyal, reliable, etc., and that our security guarantees are iron-clad. It is a formula that reinforces diplomatic rigidity, because it requires us to keep doing things to keep allies happy and issuing threats (or in some cases, taking actions) to convince foes that we are serious. And while it might have made some degree of sense during the Cold War, it is increasingly counterproductive today.¶ One could argue that credibility did matter during the Cold War. The United States did face a serious peer competitor in those days, and the Soviet Union did have impressive military capabilities. Although a direct Soviet attack on vital U.S. interests was always unlikely, one could at least imagine certain events that might have shifted the global balance of power dramatically. For example, had the Soviet Union been able to conquer Western Europe or the Persian Gulf and incorporate these assets into its larger empire, it would have had serious consequences for the United States. Accordingly, U.S. leaders worked hard to make sure that the U.S. commitment to NATO was credible, and we did similar things to bolster U.S. credibility in Asia and the Gulf.¶ Of course, we probably overstated the importance of "credibility" even then. Sloppy analogies like the infamous "domino theory" helped convince Americans that we had to fight in places that didn't matter (e.g., Vietnam) in order to convince everyone that we'd also be willing to fight in places that did. We also managed to convince ourselves that credible nuclear deterrence depended on having a mythical ability to "prevail" in an all-out nuclear exchange, even though winning would have had little meaning once a few dozen missiles had been fired.¶ Nonetheless, in the rigid, bipolar context of the Cold War, it made sense for the United States to pay some attention to its credibility as an alliance leader and security provider. But today, the United States faces no peer competitor, and it is hard to think of any single event that would provoke a rapid and decisive shift in the global balance of power. Instead of a clear geopolitical rival, we face a group of medium powers: some of them friendly (Germany, the UK, Japan, etc.) and some of them partly antagonistic (Russia, China). Yet Russia is economically linked to our NATO allies, and China is a major U.S. trading partner and has been a major financier of U.S. debt. This not your parents' Cold War. There are also influential regional powers such as Turkey, India, or Brazil, with whom the U.S. relationship is mixed: We agree on some issues and are at odds on others. And then there are clients who depend on U.S. protection (Israel, Saudi Arabia, Afghanistan, Taiwan, etc.) but whose behavior often creates serious headaches for whoever is in the White House.¶ As distinguished diplomat Chas Freeman recently commented, "the complexity and dynamism of the new order place a premium on diplomatic agility. Stolid constancy and loyalty to pre-existing alliance relationship are not the self-evident virtues they once were. We should not be surprised that erstwhile allies put their own interest ahead of ours and act accordingly. Where it is to our long-term advantage, we should do the same."¶ What might this mean in practice? As I've noted repeatedly, it means beginning by recognizing that the United States is both very powerful and very secure, and that there's hardly anything that could happen in the international system that would alter the global balance of power overnight. The balance is shifting, to be sure, but these adjustments will take place over the course of decades. Weaker states who would like U.S. protection need it a lot more than we need them, which means our "credibility" is more their problem than ours. Which in turn means that if other states want our help, they should be willing to do a lot to convince us to provide it.¶ Instead of obsessing about our own "credibility," in short, and bending over backwards to convince the Japanese, South Koreans, Singaporeans, Afghans, Israelis, Saudis, and others that we will do whatever it takes to protect them, we ought to be asking them what they are going to do for themselves, and also for us. And instead of spending all our time trying to scare the bejeezus out of countries like Iran (which merely reinforces their interest in getting some sort of deterrent), we ought to be reminding them over and over that we have a lot to offer and are open to better relations, even if the clerical regime remains in power and maybe even if -- horrors! -- it retains possession of the full nuclear fuel cycle (under IAEA safeguards). If nothing else, adopting a less confrontational posture is bound to complicate their own calculations.

#### Congressional restrictions key to prevent avert traps

Brookings 2013 (Brookings Institution, June 20, 2013, “The Road to War: Presidential Commitments and Congressional Responsibility,” http://www.brookings.edu/events/2013/06/20-war-presidential-power)

Ever since WWII, Kalb said that “history has led us into conflicts that we don’t understand” because presidents do not seek approval from Congress for declarations of war. The country has reached a point now where “presidential power is so great, words out of his mouth become policy for the United States.” Kalb used the Syrian civil war and President Obama’s “red line” policy as an example of how a president’s words become strategy for the United States. Kalb argued that this presidential “flexibility” in foreign policy decision-making has repeatedly led the country into one misguided war to the next such as the Vietnam and Iraq wars. To nullify these poor decisions, Kalb believes that formal congressional declarations of war will help “trigger the appreciation for the gravity of war” and assist in “unifying the nation” behind a strategic military intervention, resulting in more positive outcomes for the United States. ¶ He concluded his remarks by noting that declarations of war by Congress are “stark commitments,” and statements by the president of the United States must be thoroughly discussed to make well-informed decisions that will be in the best interest of the American people. Conflicts must be understood before the decision is made to send American troops to war, and presidents of the United States should converse with Congress before taking any military action.

#### Obama will comply

Barron 2008 (David J. Barron, Professor of Law at Harvard Law School and Martin S. Lederman, Visiting Professor of Law at the Georgetown University Law Center, “The Commander in Chief at the Lowest Ebb -- A Constitutional History”, Harvard Law Review, February, 121 Harv. L. Rev. 941, Lexis)

In addition to offering important guidance concerning the congressional role, our historical review also illuminates the practices of the President in creating the constitutional law of war powers at the "lowest ebb." Given the apparent advantages to the Executive of possessing preclusive powers in this area, it is tempting to think that Commanders in Chief would always have claimed a unilateral and unregulable authority to determine the conduct of military operations. And yet, as we show, for most of our history, the presidential practice was otherwise. Several of our most esteemed Presidents - Washington, Lincoln, and both Roosevelts, among others - never invoked the sort of preclusive claims of authority that some modern Presidents appear to embrace without pause. In fact, no Chief Executive did so in any clear way until the onset of the Korean War, even when they confronted problematic restrictions, some of which could not be fully interpreted away and some of which even purported to regulate troop deployments and the actions of troops already deployed.¶ Even since claims of preclusive power emerged in full, the practice within the executive branch has waxed and waned. No consensus among modern Presidents has crystallized. Indeed, rather than denying the authority of Congress to act in this area, some modern Presidents, like their predecessors, have acknowledged the constitutionality of legislative regulation. They have therefore concentrated their efforts on making effective use of other presidential authorities and institutional [\*949] advantages to shape military matters to their preferred design. n11 In sum, there has been much less executive assertion of an inviolate power over the conduct of military campaigns than one might think. And, perhaps most importantly, until recently there has been almost no actual defiance of statutory limitations predicated on such a constitutional theory.¶ This repeated, though not unbroken, deferential executive branch stance is not, we think, best understood as evidence of the timidity of prior Commanders in Chief. Nor do we think it is the accidental result of political conditions that just happened to make it expedient for all of these Executives to refrain from lodging such a constitutional objection. This consistent pattern of executive behavior is more accurately viewed as reflecting deeply rooted norms and understandings of how the Constitution structures conflict between the branches over war. In particular, this well-developed executive branch practice appears to be premised on the assumption that the constitutional plan requires the nation's chief commander to guard his supervisory powers over the military chain of command jealously, to be willing to act in times of exigency if Congress is not available for consultation, and to use the very powerful weapon of the veto to forestall unacceptable limits proposed in the midst of military conflict - but that otherwise, the Constitution compels the Commander in Chief to comply with legislative restrictions.¶ In this way, the founding legal charter itself exhorts the President to justify controversial military judgments to a sympathetic but sometimes skeptical or demanding legislature and nation, not only for the sake of liberty, but also for effective and prudent conduct of military operations. Justice Jackson's famous instruction that "with all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations" n12 continues to have a strong pull on the constitutional imagination. n13 What emerges from our analysis is how much pull it seemed to [\*950] have on the executive branch itself for most of our history of war powers development.

#### Internal checks fail--- executive branch lawyering

Marshall 2008 (William P. Marshall, Kenan Professor of Law, University of North Carolina, “ELEVEN REASONS WHY PRESIDENTIAL POWER INEVITABLY EXPANDS AND WHY IT MATTERS,” Boston University Law Review, http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/MARSHALL.pdf)

The expansion of presidential power is also a product of executive branch ¶ lawyering. Because of justiciability limitations, many of the questions ¶ surrounding the scope of presidential power, such as war powers,38 never reach ¶ the courts.39 In these circumstances, the Department of Justice (DOJ) and its ¶ Office of Legal Counsel (OLC), the division that is charged with advising the ¶ President as to the scope of his or her powers, are the final legal authorities¶ opining on these issues.40 ¶ This means, in effect, that the executive branch is the final judge of its own authority. Not surprisingly, this dynamic leads to broad interpretations of executive power for a variety of reasons.41 To begin with, the President, ¶ simply by his power of appointment, can assure that his Attorney General ¶ views the primary duty of the office is to empower the administration and not ¶ to some abstract, dispassionate view of the law.42 President Kennedy selected ¶ his brother to be Attorney General, President Nixon his campaign manager. ¶ Neither appointment, I suspect, was based on the desire to have a recalcitrant¶ DOJ. Moreover, even when the President chooses a person renowned for her ¶ independence, the pressures to bend to the President’s will are considerable. ¶ Not only does the Attorney General act under the threat of removal, but she is ¶ likely to feel beholden to the President and bound, at least in part, by personal ¶ loyalty.43 ¶ Some might argue that even if the Attorney General may be overly ¶ susceptible to the influence of the President who appointed her, the same ¶ should not be true of the career legal staff of the DOJ, many of whom see their ¶ role as upholding the Constitution rather than implementing any President’s ¶ specific agenda. But the ability of the line lawyers at DOJ to effectively check ¶ executive branch power may be more illusory than real. First, the lawyers in ¶ the DOJ are likely to have some disposition in favor of the government if only ¶ because their clients are the President and the executive branch.44 Second, ¶ those DOJ lawyers who are hired for their ideological and political support of ¶ the President will likely have little inclination to oppose the President’s ¶ position in any case. Third, as a recent instance at DOJ demonstrates, the ¶ President’s political appointees can always remove or redeploy staff attorneys if they find them too independent.45 Fourth, even if some staff lawyers have ¶ initial resistance to the President’s position, the internal pressures created by ¶ so-called “group-think” may eventually take over.46 The ability of a staff ¶ attorney to withstand the pressures of her peers in adhering to legal principle in ¶ the face of arguments based on public safety or national security can often be ¶ tenuous, particularly when the result of nay-saying may lead the lawyer to ¶ exile in a less attractive assignment. ¶ To be sure, the DOJ has, at times, viewed itself as a truly independent voice. ¶ Attorney General Edward Bates, appointed by Lincoln reportedly stated that it ¶ was his duty “to uphold the Law and to resist all encroachments, from ¶ whatever quarter of mere will and power.”47 Robert H. Jackson, in contrast, ¶ looking back from the perch of a Supreme Court Justice, saw his role as the ¶ Attorney General during the Roosevelt Administration otherwise, describing in ¶ one case the opinion he offered as Attorney General as “partisan advocacy.”48¶ But whatever the views of those individuals holding the position of Attorney ¶ General, those views are, at best, only of secondary importance. Far more ¶ important are the views of the Presidents who appoint the Attorneys General,¶ and in this respect the positions of the occupants of the White House have been consistent. As one study states, “[t]he President expects his Attorney General . ¶ . . to be his advocate rather than an impartial arbiter, a judge of the legality of ¶ his action.”49 Under such a system, the pressure for DOJ to develop expansive ¶ interpretations of presidential power is inexorable.

#### Only Congressional checks prevent frivolous interventionism

Dickerson 2009 (Annette Warren Dickerson, Director of Education & Outreach for the Center for Constitutional Rights, “Restore. Protect. Expand. Amend the War Powers Resolution”, Center for Constitutional Rights White Paper, http://ccrjustice.org/files/CCR\_White\_WarPowers.pdf)

Reform the War Powers Resolution¶ The War Powers Resolution has failed. Every president since the enactment of the Act has considered it to be unconstitutional. Presidents have generally not filed a report that would start the 60-day clock running, despite repeated executive introduction of armed forces into places like Indochina, Iran, Lebanon, Central America, Grenada, Libya, Bosnia, Haiti, Kosovo and Somalia, among others. Congress has usually not challenged this non-compliance. And, the judiciary has persistently refused to adjudicate claims challenging executive action as violating the War Powers Resolution, holding that members of Congress have no standing to seek relief, or that the claim presents non-justifiable political questions.¶ The War Powers Resolution, as written, was flawed in several key respects. The first flaw was that the Resolution imposed no operative, substantive limitations on the executive’s power to initiate warfare, but rather created a time limit of 60 days on the president’s use of troops in hostile situations without explicit congressional authorization. This approach was a mistake, because as a practical matter it recognized that the President could engage in unilateral war-making for up to 60 days, or 90 days with an extension. But the Constitution requires that Congress provide authorization prior to initiating non-defensive war, not within a period of months after warfare is initiated. As history has demonstrated time and again, it is difficult to terminate warfare once hostilities have begun. The key time for Congress to weigh in is before hostilities are commenced, not 60 or 90 days afterward.¶ Secondly, the War Powers Resolution correctly recognized that even congressional silence, inaction or even implicit approval does not allow the president to engage in warfare – but it failed to provide an adequate enforcement mechanism if the president did so. Under the resolution, wars launched by the executive were supposed to be automatically terminated after 60 or 90 days if not affirmatively authorized by Congress – but this provision proved unenforceable. Presidents simply ignored it, Congress had an insufficient interest in enforcing it and the courts responded by effectually saying: if Congress did nothing, why should we?¶ Reforming the War Powers Resolution is a project that will require leadership from the President and the political will of Congress, working together in the service and preservation of the Constitution. In light of the abuses that have taken place under the Bush administration, it is the responsibility of a new administration to insist on transparency in the drafting of new legislation.¶ There is a long history of attempts to revise the War Powers Resolution. As new legislation is drafted, though, it will be important to focus on the central constitutional issues. Much time has been spent in debating how to address contingencies. It will be impossible to write into law any comprehensive formula for every conceivable situation, though; much more important will be establishing the fundamental principles of reform:¶ The War Powers Resolution should explicitly prohibit executive acts of war without previous Congressional authorization. The only exception should be the executive’s power in an emergency to use short-term force to repel sudden attacks on US territories, troops or citizens.¶ It is true that many potential conflict situations will be murky, complicated or divisive, and that quick congressional action may not always be forthcoming. Yet, history shows the folly of launching wars that are not supported by the American people. The United States should not use military force until a substantial consensus develops in Congress and the public that military force is necessary, appropriate and wise.¶ Today, as in 1787, the reality is that the interests of the people of the United States are best served if the Congress retains the power to declare war, and the President’s unilateral power to use American forces in combat should be reserved to repelling attacks on American troops or territories and evacuating citizens under actual attack. Repelling does not equate retaliation for an attack on an American city that occurred in the past, be it several days, weeks or months prior; it also does not mean launching a surprise invasion of a nation that has not attacked us. Repelling similarly does not permit the inflation of supposed threats against US citizens as justification to invade another country, as was the case in the Dominican Republic in 1965 and Grenada in 1983. The president can respond defensively to attacks that have been launched or are in the process of being launched, but not to rumors, reports, intuitions, or warnings of attacks. Preventive war, disguised as preemptive war, has no place in constitutional or international law.

### Crimea Advantage

#### Crimea isn’t pretty, but it also doesn’t have to be the end of the world--- it’s simply the re-settling of Russia’s sphere of influence in post-unipolar Eurasia--- Ukraine is an essential buffer state--- only US involvement risks escalation

Adams 3/17 (Gordon Adams, professor of international relations at American University's School of International Service and distinguished fellow at the Stimson Center, “Don't Poke the Russian Bear,” Foreign Policy, http://www.foreignpolicy.com/articles/2014/03/17/don\_t\_poke\_the\_russian\_bear\_ukraine)

American policymakers don't get it; the politicians don't get it; Fox News certainly doesn't get it; the advocates for various flavors and colors of democracy don't get it. And in not getting it, they are pushing the United States down the road to confrontation with Russia. ¶ It's not about democracy. It's not about annexation. It's not about aggression or a new Munich. It's not about a return to the Cold War. It's about centuries-old Russian paranoia about the states on its borders and what Moscow think the Europeans, the Chinese, or the Americans are up to in its near abroad.¶ The Ukraine crisis, at its heart, is about the realities of the interstate system, which has only been around for more than 400 years, particularly in the Eurasian region. But a lot of people seem to have an emotional investment in a different answer than reality. ¶ The neo-con buccaneers are invested in making Vladimir Putin's aggression in Crimea part of a meta-critique of Barak Obama's foreign policy. Take Stephen Blank of the American Foreign Policy Council, asserting on the basis of no evidence at all that "clearly, Russia has acted because its leaders believe that the Obama administration and Western allies are irresolute, weak and need Russia more than it needs them." ¶ Then there's Sen. John McCain, who never misses an opportunity to slam the president, or to recommend bluster in foreign policy, saying -- in the same breath -- that Putin is to blame for Crimea but that Obama's foreign policy is really to blame because it "has fed a perception that the United States is weak, and to people like Mr. Putin, weakness is provocative." ¶ Or Sen. James Inhofe, the ranking minority member on the Senate Armed Services Committee, who's boldly proposed that the United States send F-22 fighter jets to Poland and Aegis missile interceptor-laden ships to the Baltic to show toughness.¶ Even Condoleezza Rice, who surely knows better as a Russia scholar, argues that events like Putin's invasion of Crimea "have come due to signals that we are exhausted and disinterested." ¶ Come on, folks. Rice, Inhofe, McCain are some of the people who brought us that notoriously successful U.S. military intervention in Iraq. How's that democracy and regional stability thing working out for ya? There's not a lot of street cred here about how to handle international tensions.¶ The hard, international reality here is that Russia cares, a lot, about what happens on its periphery. There's no mystery here; the precedent goes back hundreds of years. And it is not a pretty form of caring, and never has been. From the days of the czars, this has involved invasions, occupations, absorptions, corruption, and power plays -- all the nice, little things great powers like to do on their peripheries. ¶ Moscow isn't trying to start a new Cold War, either. They're making sure the states right around them are friendly, whatever their form of government. So it serves little purpose talking about the Sudetenland or standing up to Hitler. Putin is a bully, but he is not an insane, genocidal dictator engaged in an ideological search for "lebensraum." Plus, I get very little sense here of "today Kiev; tomorrow Budapest" emanating from Moscow, but a lot of paranoia about U.S. involvement in the coup d'état in Ukraine and fears of NATO expansion. Of course, an opportunistic grab for a piece of land that used to be part of Russia is a bold move, but it's not tanks streaming across the Fulda Gap.¶ It's also not about the West (that archaic term the media still likes to use, though the reality of "a West" disappeared in 1989, if not before) coming to the support of a helpless little democracy. Ukraine is not a shiny, emerging democracy -- it is a badly-divided, poorly-run country. Its economy has been limping or failing for years and corruption is rampant, even among the supporters of someone like Yulia Tymoshenko, whom Inhofe has been gussying up for several years as a heroine of democracy. ¶ It's not about NATO, either. Ukraine is not a NATO ally for the very good reason that even supporters of expanding NATO recognize -- it is right next door to Russia with a substantial Russian population, many of whom feel a closer connection to the old motherland than to Ukraine's teetering government. John Mearsheimer is right: Ukraine is a buffer state between Russia and Europe. About the most provocative thing to do today would be to rush a big supply of arms to Kiev, with trainers and consultants, preparing for war with Russia.¶ The reality here is that this is a tough assertion by Putin of what Russia will not accept with respect to U.S. and European influence in a strategic partner country. Call it paranoid, aggressive, nasty -- call it what you like, but there it is. ¶ If you want a touchstone for how events in Ukraine and a muscular response might be seen, go back roughly 190 years in American history, when a president laid down a doctrine that warned Europeans not to try to create new colonies in the Western Hemisphere. The United States enforced the Monroe Doctrine and policed its neighborhood with a war on Mexico, pressures on Canada, interventions in Cuba, the taking of Puerto Rico, and subsequent endless interventions in Haiti, Guatemala, Nicaragua, Dominican Republic, Chile, tiny Grenada, and the list goes on. If the idea of Russians sending military assistance to Cuba makes your blood boil, you get the idea.¶ This historical recital has nothing to do with that old red herring about "moral equivalency." That metaphor should have been trashed with the end of the Cold War. It has to do with security and the assertion by a large power of what it sees as its regional rights. Actions will be taken when threats and risks are detected. And they will not be taken with kindness and love; generally, they happen through covert or overt uses of military force. ¶ Realistically, there is very little the United States, or its European allies, can do about Crimean independence now, or Russia's power play. I would love to see Putin gone and a true legislature in Moscow, instead of the puppet one there today. I would love to see Russian crowds resisting their leaders' military aggression -- and prevailing. And I am surely not alone in saying that I would love to see that strand of Russian history that embraces Europe reassert itself, leading to greater cooperation and integration across Eurasia as a broader zone of peace and economic harmony. But it ain't gonna happen tomorrow.¶ Those who would rush America into a military confrontation with Moscow over Crimea have to explain why they think Putin would back down, especially if we escalated this conflict. Sanctions and diplomacy are the right response, and don't hold out for a sudden withdrawal of Russian forces or the outbreak of accountable democracy in Kiev. Sometimes we have to live with the world as it is, not the way we want it to be, even if it is ugly.

#### But, Crimea *is* causing European partners to start calling in security guarantees, at NATO’s weakest point in history--- risks triggering Article 5 which obligates a US military response

Davis 3/11 (Carlo Davis, “NATO Is In No Position to Protect Eastern Europe From Russia,” New Republic, http://www.newrepublic.com/article/116967/nato-no-position-protect-eastern-europe-russia)

Last week, Russia launched a surprise military exercise involving “deepwater bombing and mine planting” on the Baltic Sea coast of its Kaliningrad exclave, which is nestled in between Lithuania and Poland. Lithuanian President Dalia Grybauskaite said the exercise shows that “Russia is trying to threaten all Europe and becoming unpredictable.” She's not alone in worrying. All across the former Soviet borderlands, leaders are looking at Russia’s naked play for Crimea and finding uncomfortable similarities. Ethnic Russians amount to roughly a quarter of the population in both Latvia and Estonia, and a majority in major cities like Narva and Daugavpils. If Simferopol can come back into the Russian fold, the Baltic leaders wonder, why not Narva?¶ The answer always given, of course, is that Poland and the Baltic States are members of both the European Union and, more importantly, the North Atlantic Treaty Organization. Any incursion into their territory would obligate a response from NATO’s 28 members, including the United States. "Thanks be to God, we are NATO members," Grybauskaite told reporters.¶ It’s hard to know if NATO’s eastern flank should be thanking God or praying to [Her] ~~Him~~. Russia’s return to military adventurism in Europe comes at perhaps the weakest point in NATO’s 65-year history. The coalition’s disturbing lack of cohesion and preparedness for even small engagements, along with shifting American priorities, cast serious doubt on the guarantee of protection that made Eastern Europe so eager for NATO’s embrace.¶ Of course, NATO’s leadership has duly made gestures of support for its Eastern European caucus in the aftermath of Crimea. After Poland and Lithuania invoked an emergency meeting under Article 4 of the North Atlantic Treaty for only the fourth time since 1949, NATO cancelled a joint military mission with Russia and announced plans to increase military cooperation with Ukraine. The U.S. also sent six additional fighter jets to a routine air policing mission in the Baltic states. But these are symbolic moves, nothing more.¶ NATO relies heavily on the United States to project power and deter external threats. The U.S. provides 22 percent of NATO’s common-funded budget and is the organization's largest member—its military spending represents nearly three quarters of all NATO members' military spending combined. As a result, notes Stratfor Chairman George Friedman in his prescient book The Next 100 Years, NATO’s collective defense guarantee is “effective only if the United States is prepared to use force.”¶ Concerned Poles and Balts seeking hard evidence behind America’s rhetorical support for NATO are bound to be disappointed. Obama’s “pivot to Asia” is only the latest stage in a multi-decade drawdown of U.S. forces in Europe. Only 64,000 U.S. troops are currently stationed there, compared to 450,000 at the height of the Cold War. And U.S. military forces have never been deployed east of the Oder River, which forms the boundary between Germany and Poland. Even planned U.S. missile defense shields for Poland and the Czech Republic were cancelled as part of Obama’s attempted reset with Russia in 2009.¶ Russia’s intervention in Crimea also came just days after the Department of Defense proposed a 2015 budget that would reduce the U.S. army to its smallest size since before World War II. The budget is a recognition that the U.S. has been spending too much on its military for decades and will no longer be at war for the first time since 2001. It is also a much larger recognition that a debt-ridden, sequestered America cannot be expected to militarily enforce the interests of every ally in every corner of the globe.¶ Despite this, the rest of NATO continues to operate as if the full force of the U.S. military is behind it. In the interest of rectifying the massive imbalance within NATO, its members agreed in 2006 to each spend at least 2 percent of their GDP on defense (the U.S. typically spends around 4 percent). As of last year, only seven members met that mark. In fact, since 2010, most European countries’ defense expenditures have actually fallen between 8 percent and 30 percent.¶ That imbalance was apparent during the 2011 intervention in Libya. After the U.S. moved into a “supporting role,” the NATO countries maintaining the no-fly zone quickly began to run out of precision bombs, and the U.S. was forced to provide 80 percent of aerial refueling. In a preview of his post-retirement candor, Secretary of Defense Robert Gates warned at the time of “a dim, if not dismal future” of “collective military irrelevance” for NATO if trends continued.¶ Ultimately, of course, military spending trends will not tell us what happens if a NATO member is attacked. But Article 5 of the North Atlantic Treaty, which requires the response of every member if one member is attacked, is virtually untested. The only time it has ever been invoked, after the September 11th attacks, was at the behest of the United States. And as Syria has shown, the ghost of Iraq still stalks America’s foreign policy, poisoning the debate over any intervention no matter how righteous.

#### Obama has committed additional US troops to Eastern Europe and has vowed to honor all NATO commitments

Shear and Baker 3/26 (Michael D. Shear, Peter Baker, “U.S. and NATO May Deploy Additional Forces in Eastern Europe,” http://www.nytimes.com/2014/03/27/world/europe/obama-europe.html?\_r=0)

BRUSSELS — President Obama offered a sustained and forceful rejoinder against Russia on Wednesday, denouncing the “brute force” it has used to intimidate neighbors like Ukraine and vowing that the United States “will never waver” in standing up for its NATO allies against aggression by Moscow.¶ In a speech meant as a capstone to his spring trip to Europe in the midst of an East-West confrontation with Russia, Mr. Obama addressed Moscow’s justifications for its intervention in Ukraine point by point, dismissing them as “absurd” or unmerited. He even defended the Iraq war, which he opposed, as a stark contrast to the way Russia has seized the Crimean Peninsula away from Ukraine.¶ “America and the world and Europe has an interest in a strong and responsible Russia, not a weak one,” Mr. Obama told an audience of leading figures here in the capital of the European Union. “But that does not mean that Russia can run roughshod over its neighbors. Just because Russia has a deep history with Ukraine does not mean that it should be able to dictate Ukraine’s future. No amount of propaganda can make right something the world knows is wrong.”¶ Mr. Obama rejected as false Moscow’s claim that Russian speakers were systematically imperiled in Ukraine and he rebutted the argument that Russia did nothing more in Crimea than the West did in Kosovo. He also disclaimed any self-interested motivations in supporting a new pro-Western government in Ukraine that toppled a Moscow ally last month.¶ “Make no mistake: Neither the United States nor Europe has any interest in controlling Ukraine,” he said. “We have sent no troops there. What we want for the Ukrainian people is to make their own decision, just like other free people around the world.”¶ Perhaps most poignantly, Mr. Obama took on and dismissed the Russian claim that the United States is being hypocritical because of its invasion of Iraq. He reminded the audience that he opposed the war. “But even in Iraq, America sought to work within the international system,” he said. “We didn’t claim or annex Iraq’s territory. We did not seize Iraq’s resources for our own.”¶ The speech came as Mr. Obama moved to deploy additional military forces to Eastern Europe to guard against Russian aggression. The president met with Anders Fogh Rasmussen, the secretary general of NATO, to discuss ways of reassuring Poland and the Baltic states, fellow alliance members that remain acutely nervous about Russia’s actions in the region. The United States has already sent additional planes to patrol the Baltic region and an aviation detachment to Poland.¶ Mr. Obama vowed to live up to NATO obligations to defend alliance members. “We have to make sure that we have put together very real contingency plans for every one of these members, including those who came in out of Central and Eastern Europe,” he said at a news conference before his speech. “And over the last several years we have worked up a number of these contingency plans.” He said alliance ministers next month would discuss doing more to ensure a “regular NATO presence among some of these states that feel vulnerable.”¶ The United States has already sent an extra six F-15C Eagles and 60 airmen to Lithuania and 12 F-16 fighter jets and 200 service members to Poland in recent weeks. “We’re prepared to do more,” Mr. Obama said.¶ Aides said the president will bolster that by rotating more ground and naval troops for exercises and training in Poland and the Baltic countries; update contingency planning for specific countries and update NATO’s threat assessment in the region; and increase the capacity of a NATO quick-response force.¶ Mr. Obama challenged other NATO nations to expand their own efforts, saying they needed to upgrade their own militaries and help their eastern allies. “Going forward, every NATO member state must step up and share in the burden,” he said.¶ But in his speech, at the Palais des Beaux-Arts, perhaps the most prominent cultural site in Belgium, the president made a point of saying he did not consider the current showdown with Russia to be a new Cold War, noting that it was not a global struggle over ideology between blocs of nations but what he called an isolated, out-of-touch power flexing its muscles.¶ “Russia’s leadership is challenging truths that only a few weeks ago seemed self-evident, that in the 21st century the borders of Europe cannot be redrawn with force, that international law matters, that people and nations can make their own decisions about their future,” he said.

#### Putin won’t back down--- He’s already calculated that he can outmaneuver the US on Ukraine--- Obama CAN’T credibly signal resolve

Allam 3/1 (Hannah Allam, McClatchy Washington Bureau, “Crimea crisis: Pugnacious Putin can afford to ignore Washington,” The Star, http://www.thestar.com/news/world/2014/03/01/crimea\_crisis\_pugnacious\_putin\_can\_afford\_to\_ignore\_washington.html)

Why has Russian President Vladimir Putin risked political isolation, sanctions and other U.S.-led retaliatory measures with a surprise incursion into neighbouring Ukraine?¶ Because he can.¶ Putin’s audacity is underpinned by the reality that, while patience is wearing thin, the Obama administration holds few options for punishing a leader who’s already calculated that the fallout is worth the message to the world that Russia will fight fiercely for its interests.¶ Foreign policy analysts say the Ukraine invasion deals a severe blow to U.S.-Russian ties, which already were fraying as it became clear that the Kremlin wasn’t on board for what the Obama administration had envisioned as a “reset” in relations.¶ Putin, analysts say, doesn’t seem concerned about a looming breakup with Washington: he’s confident there’ll be no U.S. military intervention and has decided to weather any other potential consequences.¶ Olga Oliker, a Russia specialist and senior international policy analyst at the RAND Corp. research centre in Washington, said the tug-of-war over Ukraine is part of a bigger divergence: competing visions from Washington and Moscow over the ideal future for Russia.¶ “We think what’s good for Russia is stability in the neighbourhood, economic growth,” Oliker said. “But Russia, or at least Vladimir Putin, thinks what’s most important is that Russia is taken seriously, and that a strong Russia is one that sticks to its guns and gets what it wants.”¶ In the case of Ukraine, analysts say, it’s likely that Putin will do just that. The United States and its allies could impose economic sanctions, kick Russia out of the G8 forum for industrialized democracies and issue stern condemnations. But none of that is likely to sway Putin.¶ By his math, the U.S. and its allies need Russia more than Russia needs them. Russia exports natural gas to Europe, it is the world’s third-largest military spender, and it wields veto power on the UN Security Council.¶ As an ally of Syria’s President Bashar Assad, Russia has made itself instrumental in talks on how to resolve the civil war in that country. Russia is also a key player in the mammoth effort to dismantle Syria’s chemical weapons arsenal under an agreement that saved the Obama administration from making good on threats of a military strike and one of the six countries negotiating with Iran over its nuclear program.¶ Obama spoke with Putin for 90 minutes Saturday, according to a statement from the White House. Obama asked Russia to withdraw its forces from Crimea and to initiate dialogue with Ukrainian officials. He also said the United States and its allies were holding urgent meetings to discuss the crisis — a suggestion of future punitive action — but the most serious threat in the White House statement was that Russia could face “greater political and economic isolation.”¶ “President Obama has no particularly useful credibility to move the Russians,” Steven Bucci, director of foreign and national security policy at the Heritage Foundation, a conservative research institute in Washington, wrote in a statement.

#### US involvement risks uncontrolled escalation and nuclear use

Thompson 3/13 (Loren Thompson, Forbes Contributor, March 13, 2014, “Ukraine Crisis: Six Reasons Why U.S. Use Of Military Forces Is Unthinkable,” http://www.forbes.com/sites/lorenthompson/2014/03/13/ukraine-crisis-six-reasons-why-u-s-use-of-military-forces-is-unthinkable/)

The interim prime minister of Ukraine was in Washington this week, and according to the New York Times, he was asking just one thing of U.S. leaders. He said as a signatory to a 1994 treaty guaranteeing the security of Ukraine, America “must defend our independent, sovereign state.” Some members of Congress sound like they agree, especially Republicans who are using Washington’s slow response to Russian occupation of the Crimea as the latest evidence that President Obama is weak when it comes to dealing with America’s enemies.¶ If Obama looks weak, it is mainly because he sees the danger of decisive action in a place that matters far more to Russia than America. Over the last two decades, the United States has gotten used to fighting enemies with modest military capabilities and crackpot leaders, but Russia is a much more imposing player. If Washington somehow stumbled into a military confrontation with Moscow, the U.S. would probably lose and in the process run huge risks to its larger interests.¶ Most Americans seem to understand this — a CNN poll this week found three-quarters of respondents opposed to even giving military aid to Kiev, with far fewer backing use of U.S. forces. Nonetheless, some hardliners seem to think America’s military might play a role in forcing Russian leader Vladimir Putin to back away from what they see as a return to the expansionist foreign policies of the Cold War era. Here are six reasons why using U.S. military power in the current crisis would be a strategic miscalculation of epic proportions.¶ 1. Russia has the ability to utterly destroy America. Local conflicts have a way of getting out of control when foreign powers intervene. In any military confrontation between U.S. and Russian forces, there is a danger of escalation not only to conventional combat, but beyond — in other words, to the use of nuclear weapons. That may sound like an improbable scenario, but it’s no more outlandish than an assassination attempt by Serbian nationalists leading to a World War, and yet that actually happened — in the same region. Russia has thousands of nuclear warheads, and the only defense America has against such weapons is retaliation in kind. Think of the possibilities.

#### Russia nuke war causes extinction

Bostrom 2002 (Nick Bostrom, Professor of Philosophy at Yale, “Existential Risks: Analyzing Human Extinction Scenarios and Related Hazards,” 2002, http://goo.gl/rmQyl)

A much greater existential risk emerged with the build-up of nuclear arsenals in the US and the USSR. An all-out nuclear war was a possibility with both a substantial probability and with consequences that might have been persistent enough to qualify as global and terminal. There was a real worry among those best acquainted with the information available at the time that a nuclear Armageddon would occur and that it might annihilate our species or permanently destroy human civilization.[4] Russia and the US retain large nuclear arsenals that could be used in a future confrontation, either accidentally or deliberately. There is also a risk that other states may one day build up large nuclear arsenals. Note however that a smaller nuclear exchange, between India and Pakistan for instance, is not an existential risk, since it would not destroy or thwart humankind’s potential permanently. Such a war might however be a local terminal risk for the cities most likely to be targeted. Unfortunately, we shall see that nuclear Armageddon and comet or asteroid strikes are mere preludes to the existential risks that we will encounter in the 21st century.

### Solvency

#### Restricting cred justification key--- Giving the OLC interpretive discretion guarantees expansive readings of the law

Sitaraman 2014 (Ganesh Sitaraman, Assistant Professor of Law at Vanderbilt, “Credibility and War Powers,” 127 Harv. L. Rev. F. 123, http://www.harvardlawreview.org/issues/127/january14/forum\_1024.php)

In late August 2013, after Syrian civilians were horrifically attacked with sarin gas, President Barack Obama declared his intention to conduct limited airstrikes against the Syrian regime of President Bashar al-Assad. A year earlier, President Obama had announced that the use of chemical weapons was “red line” for the United States.1 Advocates for military action now argued that if the credibility of American threats diminished, dictators would have license to act with impunity.2 President Obama himself seemed to embrace this justification for action. “The international community’s credibility is on the line,” he said in early September. “And America and Congress’s credibility is on the line.”3 ¶ For all the talk of credibility, political scientists have offered devastating critiques of credibility arguments in the context of military threats. They have demonstrated not only that the concept is often deployed in incomplete and illogical ways but also that as a historical matter, a country’s “credibility” based on its reputation and past actions has little or no effect on the behavior of opponents in high-stakes international crises. In the crises in the run-up to World War I, in the Berlin crises of the late 1950s and early 1960s, and even in the crises leading to World War II, threats from countries that had previously backed down were not seen as less credible by their opponents. In some cases, the threats were even thought to be more credible. ¶ For constitutional lawyers, this research should be particularly troubling because credibility has migrated from foreign policy into the constitutional law of war powers. In a series of opinions, including on Somalia (1992), Haiti (2004), and Libya (2011), the Justice Department’s Office of Legal Counsel (OLC) has argued that the credibility of the United Nations Security Council is a “national interest” that can justify presidential authority to use military force without prior congressional authorization.4 This Essay argues that the credibility justification for the use of force should be removed from the constitutional law of presidential war powers. Incorporating credibility as one of the “national interests” that justify presidential use of force expands the President’s war powers significantly without a legitimate policy justification.

#### No circumvention, even in crisis

Hug 2012 (Aziz Z. Huq, Assistant Professor of Law at University of Chicago Law School, March 2012, "Binding the Executive (by Law or by Politics),” www.law.uchicago.edu/files/file/400-ah-binding.pdf)

Paulson’s genuflection and Obama’s reticence, I will contend ¶ here, are symptomatic of our political system’s operation rather than ¶ being aberrational. It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme, legislators employ formal institutional ¶ powers not only to delay executive initiatives but also affirmatively ¶ to end presidential policies.20 Numerous examples from recent events ¶ illustrate the point. Congressional adversaries of Obama, for ¶ instance, cut off his policy of emptying Guantánamo Bay via ¶ appropriations riders.21 Deficit hawks spent 2011 resisting the ¶ President’s solutions to federal debt, while the President declined to ¶ short-circuit negotiations with unilateral action.22¶ Even in military ¶ matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. That work suggests that the failure of absolute congressional control ¶ over military matters cannot be taken as evidence of “the inability of ¶ law to constrain the executive” in more subtle ways (p 5). The ¶ conventional narrative of executive dominance, in other words, is at best incomplete and demands supplementing. ¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### Best studies disprove credibility thesis

Sitaraman 2014 (Ganesh Sitaraman, Assistant Professor of Law at Vanderbilt, “Credibility and War Powers,” 127 Harv. L. Rev. F. 123, http://www.harvardlawreview.org/issues/127/january14/forum\_1024.php)

Credibility arguments could also be justified with real world evidence. For example, data could shed light on the manner of leaders’ credibility determinations: Do they actually pay attention to the disposition of the opponent based on their past actions? Or do they undertake a current calculus and focus on interests, capabilities, and the immediate situational context? ¶ In a series of qualitative studies, political scientists have shown that past actions and reputation theories of credibility have little historical basis for support.22 When leaders evaluate their opponents, they assess threats based on current calculations, not on past actions. And when leaders have justified conflicts based on preserving a reputation for resolve, others have not always interpreted their actions as was intended. Note that these studies are limited to the context of military threats and international crises. Scholars hypothesize that military threats might differ from other contexts because the stakes are so high that leaders analyze the situation instead of using heuristics like reputation.23 These findings therefore do not extend to all international issues.24 ¶ In the most extensive research on credibility theories, Professor Daryl Press reviewed thousands of pages of archival documents and found that the current calculus theory, not the past action theory, best explains decisionmaking in the “appeasement crises” of the 1930s, the Berlin crises of the late 1950s and early 1960s, and the deliberations during the Cuban Missile Crisis. On the past actions theory, the Nazis should have interpreted British and French threats as not credible because the Allies repeatedly backed down when Germany took aggressive steps in the 1930s. The historical evidence, however, shows that German leaders believed British and French threats were credible — even after the Allies backed down. For the German leaders, credibility was a function of the Allies’ power, not their reputation. Indeed, Press finds that German leaders almost never referenced past actions by the British and French. Accordingly, he concludes that appeasement was poor strategy not because the Allies undermined their credibility, but because it allowed Germany to increase its power.25 ¶ From 1958 to 1961, the world watched a number of Berlin crises unfold between the Soviets and the West. Soviet Premier Nikita Khrushchev set six-month deadlines for the Allies to withdraw from West Berlin, and he threatened to cut off access to the city. Yet every time, Khrushchev backed down. On the past actions theory, British and American leaders should have interpreted each successive threat as less credible. However, Press found that Soviet threats actually became more credible, not less credible.26 During this same period, the Soviets expanded their nuclear arsenal; as their nuclear prowess grew, so did their credibility. Indeed, by the time of the Cuban Missile Crisis, American leaders strongly believed that Khrushchev would not back down if the United States acted in Cuba. Here too Press finds that British and American leaders almost never mentioned Khrushchev’s record of bluffing.27 ¶ In an important book on reputation, Mercer analyzed the crises leading up to World War I.28 He finds that decisionmakers interpreted their adversaries’ backing down based more on the specific situational context, rather than on the disposition of the actors.29 Thus, when the Germans backed down, the Triple Entente of Britain, France, and Russia attributed those defeats to situational factors. To the extent they considered past actions, the Entente believed Germany would be more likely to follow through on its threats in the future because it had previously been defeated. Note also that both Press’s and Mercer’s cases stack the deck in favor of past actions theory: the players were the same, there were repeated crises in a short period of time, and the crises involved the same issues. These are precisely the situations in which we would expect past action theories of credibility to be most powerful at explaining behavior. ¶ Looking specifically at military actions justified by credibility arguments, political scientists have also provided historical evidence that allies and adversaries do not necessarily interpret these actions as enhancing America’s reputation or credibility. In a study of the Korean War, Mercer recounts how Secretary of State Dean Acheson believed that Western European allies were at “near-panic” over whether the United States would act.30 They were not. When the British Cabinet met to discuss the issue, Korea was fourth on their agenda and some of the ministers could not locate Korea on the map.31 Meanwhile, the French were concerned that the Americans would be too resolute. They worried that the United States would start a world war over what they saw as an area that was strategically unimportant.32 In another study, Professor Ted Hopf analyzed the Soviet reaction to the United States’s withdrawal from Vietnam. Hopf found that the Soviets did not see United States withdrawal as decreasing American credibility in the Cold War.33

### 2AC Yes Russia Ukraine Invasion

#### Putin is likely to invade Ukraine during April or May

Felgenhauer 3/25 (Pavel Felgenhauer, military analyst and journalist based in Moscow, “Russia's Window of Opportunity in Ukraine,” Foreign Policy, Democracy Lab, a special project with the Legatum Institute, http://www.foreignpolicy.com/articles/2014/03/25/russia\_s\_window\_of\_opportunity\_in\_ukraine)

According to pro-Kremlin pollsters, over 90 percent of Russians support "reunification with Crimea." The president's approval rating has skyrocketed. Putin's emotional 50-minute speech before signing the "Crimean reunification" treaty was repeatedly interrupted by standing ovations. Putin spoke, at times with palpable bitterness, about the injustices Russia has suffered since the collapse of the Soviet Union in 1991, which, he said, had left his country weak and his compatriots a "divided people." The West, according to Putin, had overplayed its hand, pushing Russia too far by attempting to take over Ukraine under the guise of an association agreement with the EU. Now Moscow is pushing back by taking "our Crimea." Putin called for national unity in the face of Western sanctions and warned against internal subversion by an unnamed "fifth column of national traitors." At the same time Putin sounded a conciliatory note, promising that "we do not want to break up Ukraine."¶ Is Putin's promise genuine? On March 4, Putin publicly promised [Rs.] not to "consider" annexing Crimea -- and then proceeded to do exactly that. The Russian president may find it hard to stop there.¶ The problem is that his brand-new province is deeply dependent on the Ukrainian mainland, which is the source of almost all of its electricity, water, and food. The peninsula's railroads and highways lead north into Ukraine. The only link between Crimea and Russia is a ferry crossing from Kerch that connects the peninsula to Russian Taman in the North Caucasus. Russian officials have announced plans to build new power stations in Crimea and a grandiose bridge from Kerch to Taman. These projects will cost billions and require years to complete. Crimea, moreover, has a rapidly aging population of over 2 million. Sustaining Crimea and fully rebuilding its infrastructure to separate it from Ukraine could cost tens of billions of dollars over the next five years, straining [Rs.] the Russian budget. An isolated, Russian-controlled Crimea facing a hostile Ukrainian mainland hardly seems like the kind of scenario Putin envisaged.¶ Moscow has stated it will not recognize any government in Kiev or the results of any national elections in Ukraine until a new constitution is adopted. Russian Foreign Minister Sergei Lavrov has specified that this new constitution, which must be unanimously adopted by all regions of Ukraine, must transform the country into a loose "federative state," one in which Russian will be an official language along with Ukrainian and the regions will be allowed to conduct their own foreign and economic policies. The establishment of a new Ukrainian state along these lines would essentially change a belt of mostly Russian-speaking regions inside Ukraine, stretching from Moldova in the southwest to Voronezh in the northeast, into a de facto Russian protectorate (even though they would still remain part of a nonaligned Ukraine). Control of these areas would allow Russia to link up with the pro-Moscow Transdniester enclave in Moldova along Ukraine's western border, where Russia still has a military garrison. The political and economic integration of large sections of a "federative Ukraine" could eventually lead to their joining the Russian Federation, like Crimea. The Ukrainian Foreign Ministry rejected the Russian plan to impose a federal system on Ukraine, calling it "unacceptable."¶ The interim Ukrainian President Olexander Turchinov has announced that -- rather than passively resisting, as Ukrainian forces did in Crimea -- Kiev's forces will "accept battle" if Russia makes any further encroachment on Ukrainian territory. On March 17, the parliament in Kiev voted to mobilize some 40,000 men to beef up the dilapidated Ukrainian military. A National Guard is being formed and some 20,000 volunteers have been called to join. The call-up of men and volunteers has been plagued by chaos and disorganization as the ill-experienced post-revolutionary government in Kiev struggles to cope with seemingly insurmountable political, economic, and social problems -- in addition to the annexation of Crimea and threats of further aggression. Nonetheless, the Ukrainian army's battle readiness has begun to rise [Rs]. Joint battalion-strength combat groups are being formed. Maintenance crews, including civilian specialists from the still vast Ukrainian defense industry, are struggling to get armor and other heavy equipment ready for operation. (The photo above shows Ukrainian armored personnel carriers heading through eastern Ukraine.)¶ Ukraine's armed forces have at their disposal vast amounts of Soviet-style heavy weapons and staggering stocks of munitions: thousands of tanks, heavy guns, and rockets as well as hundreds of jets, helicopters, and antiaircraft missiles. Most of this hardware is in storage or otherwise out of order. Given enough time and effort, however, some of these armaments could be made usable again, and the Ukrainian military could be transformed into a formidable fighting force -- especially if its leaders manage to somehow amalgamate the professional abilities of their small, largely demoralized regular force with motivated patriotic volunteers. Of course, the Ukrainian military badly lacks many essentials, like good boots, socks, field fatigues, body armor, Kevlar helmets, medical kits, communication equipment. Should they succeed in refurbishing some of their weapon systems, they should be able to achieve the status of a respectable, albeit non-modern, Soviet-style force. But the opposing Russian military can be described in the same terms: The government's vastly increased spending on rearmament in recent years has so far changed little in this respect.¶ Russian forces have been concentrated for possible offensive action on the borders of Ukraine, in vast numbers and in a high state of readiness, according to U.S. Air Force Gen. Philip Breedlove, NATO's Supreme Allied Commander Europe. In a series of military maneuvers on the Ukrainian border, Russian paratroopers (the VDV corps) and the air force have been preparing to spearhead a possible push deep into Ukraine. The lightly armed paratroops have been training to take over "enemy airfields and airports as bridgeheads of an overall advance." Such a thrust would be closely followed by the tank and motorized army brigades that have been training and deploying [Rs.] along the Ukrainian border. The Russian Defense Ministry denies that it is preparing to invade Ukraine. It is likely that the Kremlin has yet to issue a final order approving an actual invasion.¶ If Putin decides to send in his troops, he has a narrow window in which to act. The winter of 2014 in Russia and Ukraine was relatively mild with little snow, while the spring is early and warm. The soil is drying rapidly, meaning that it will soon be possible to move heavy vehicles off of highways and into fields in southern areas of Ukraine close to the Black and Azov Seas. A key date is April 1, which marks the beginning of the Russia's spring conscript call-up, when some 130,000 troops drafted a year earlier will have to be mustered out as replacements arrive. This would leave the Russian airborne troops, marines, and army brigades with many conscripts that have served half a year or not at all, drastically reducing battle readiness. The better-trained one-year conscripts can be kept in the ranks for a couple of months but no longer. Otherwise they'll start demanding to be sent home, and morale will slip. As a result, Russia's conventional military will regain reasonable battle-readiness only around August or September 2014, giving the Ukrainians ample time to get their act together.¶ Ukraine has scheduled a national presidential election for May 25 that may further legitimize the regime the Kremlin hates and wants to overthrow. The Kremlin may find it hard to resist the temptation to attack Ukraine and "liberate" the south and east while Russia is ready, the Ukrainian military weak, and the regime in Kiev unstable. Such a move could lead to more Western sanctions, but this risk maybe dwarfed by the vision of a major geostrategic victory seemingly at hand.¶ The window of opportunity for an invasion will open during the first weeks of April and close somewhere around the middle of May. During his long rule Vladimir Putin has generally shown himself to be a shrewd and cautious operator, but his actions during the Ukrainian crisis have been rash. So far his daring has paid off. This, unfortunately, is precisely what could trigger more bold moves down the road.

### 2AC Circumvention

#### Congress can solve

Scheuerman 2012 (William E. Scheuerman, Professor of Political Science and West European Studies at Indiana University, "Review Essay: Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy", Law and Social Inquiry, Summer, 37 Law 26 Soc. Inquiry 743, Lexis)

Posner and Vermeule rely on two main claims. First, even if the president constitutes the dominant actor in a legally unchecked administrative state, he or she has to gain elite and public support to get things done and stand for election. So how can political actors decide whether or not the executive is performing well? Posner and Vermeule tend to hang their hats on "executive signaling": presidents can send signals to voters communicating that they are "well-motivated," and that in fact many voters might make the same (or at least similar) decisions if they possessed the information the president typically has. By communicating in a certain way (e.g., by appointing members of the opposing party to his or her cabinet, promising to accept the recommendations of an independent commission, or by making decisions as transparent as possible), presidents can gain credibility, and voters might thereby come to acknowledge the plausibility--if not necessarily the substantive Tightness--of what the executive is doing (2010, 137-53).¶ However, as Schmitt aptly grasped, even formally free elections potentially become charades when the executive effectively exercises legally unconstrained power (e.g., in Peronist Argentina, or Putin's Russia). Posner and Vermeule never really provide enough evidence for us to dismiss this possibility. Since the president in our system is only subject on one occasion to reelection, it is unclear how their proposals might meaningfully check the executive, particularly during a second term. The fact that executive signaling represents a form of self-binding hardly seems reassuring, either (2010, 135). Nor does the book's highlighting of the possible dangers of different forms of executive signaling (e.g., too much transparency, or an excessive subservience to independent agencies) help very much on this score (2010, 142-46). Why should we expect to get presidents who know how to engage in executive signaling in just the right way?¶ The familiar reason the executive needs elite and popular support, of course, is that it still relies on a popularly elected Congress and other institutional players to get things done: this is why describing such dependence as intrinsically political and "nonlegal" seems odd. For that matter, the relationship between what we traditionally have described as a normative theory of political legitimacy and executive signaling mechanisms--whereby the executive gains popular credibility--remains ambiguous. Is their theory of executive signaling and credibility meant to stand in for a normative theory of legitimacy? If so, one might worry. We can easily imagine an executive diligently doing many of the things prescribed here yet nonetheless pursuing policies deeply at odds with the common good, or at least with what a democratic community under more ideal conditions might determine to be in its best interests. Depending on one's normative preferences, some of the examples provided of executive signaling (e.g., FDR and Obama naming Republicans to their cabinets) might legitimately be taken as evidence for presidential Machiavellianism, rather than as solid proof that the presidents in question were well-motivated and thereby somehow politically acceptable. [\*758] Presidential "signaling" seems like a pale replacement for liberal legalism and the separation of powers.

#### Plan overcomes barriers to enforcement

Lobel 2009 (Jules Lobel, Professor of Law at the University of Pittsburgh. "Restore. Protect. Expand. Amend the War Powers Resolution". Center for Constitutional Rights White Paper, http://ccrjustice.org files CCR\_White\_WarPowers.pdf)

The War Powers Resolution should explicitly prohibit executive acts of war without previous Congressional authorization. The only exception should be die executive's power in an emergency to use short-term force to repel sudden attacks on US territories, troops or citizens. It is true that many potential conflict situations will be murky, complicated or divisive, and that quick congressional action may not always be forthcoming. Yet, history shows the folly of launching wars that are not supported by the American people. The United States should not use military force until a substantial consensus develops in Congress and the public that military force is necessary, appropriate and wise. Today, as in 17S7, the reality is that the interests of the people of the United States are best served if the Congress retains the power to declare war, and the President's unilateral power to use American forces in combat should be reserved to repelling attacks on American troops or territories and evacuating citizens under actual attack. Repelling does not equate retaliation for an attack on an American city that occurred in the past, beit several days, weeks or months prior; it also does not mean launching a surprise invasion of a nation that has not attacked us. Repelling similarly does not permit the inflation of supposed threats against US citizens as justification to invade another country, as was the case in the Dominican Republic in 1965 and Grenada in 19S3. The president can respond defensively to attacks that have been launched or are in the process of being launched, but not to rumors, reports, intuitions, or warnings of attacks. Preventive war, disguised as preemptive war, has no place in constitutional or international law.¶ To ensure that this principle is enforced, new legislation should prohibit the use of appropriated funds for any executive use of force that is unauthorized under the statute. Furthermore, the reformed War Powers Resolution must allow room for judicial oversight in the case of conflicts. A president who initiates hostilities in disregard of the statute would undoubtedly use appropriated funds to do so, forcing Congress to make the difficult decision of whether to authorize funds for troops engaged in combat. The statute should therefore state that a presidential violation of the act would create an impasse with Congress, and that separation of powers principles require the Court to decide the merits of any challenge brought against an alleged violation. And, a presidential violation of this principle should be explicitly made an impeachable offense.

### 2AC Politics

#### Obama is already losing big on Ukraine--- aid and sanctions bills thump

Huey-Burns 3/26 (Adam O'Neal and Caitlin Huey-Burns, March 26, 2014, “U.S.-Russia Tensions: A Key Issue in the Midterms?,” http://www.realclearpolitics.com/articles/2014/03/26/us-russia\_tensions\_a\_key\_issue\_in\_the\_midterms\_122055.html#ixzz2x6RzBqPV)

Russia’s recent geopolitical clashes with the United States -- first over Syria, and now Ukraine -- have been a heated component of the American political conversation at times during the last year. Unsurprisingly, the issue has become highly politicized, with Republicans ripping the president as “feckless” and naïve, and Democrats accusing the GOP of undermining U.S. foreign policy objectives. ¶ With the partisan rhetoric escalating and Election Day on the horizon, some Republicans appear ready to make such international developments a central element in midterm messaging.¶ Texas Sen. John Cornyn told RCP that the president’s handling of Russia could “absolutely” become a major issue in his re-election campaign later this year. ¶ The former National Republican Senatorial Committee chairman, who supports providing Ukraine with military assistance, said his constituents are concerned about the president’s foreign policy leadership. “As America retreats [under Obama], more people are filling that void, and Vladimir Putin just happens to be the most recent one,” he said. ¶ When Republican Sen. Lindsey Graham went home to South Carolina during last week’s recess he received more questions from constituents on foreign policy as it relates to Russia than ever before. ¶ “It’s not lost on folks that what Russia is doing is probably a symptom of a greater problem, and how we handle Russia . . . in many ways determines the outcome of Iran, so people connect those two things,” he said. “The Congress is not doing very well because we can’t get our act together, but there is a growing perception that our foreign policy is failing.” ¶ Graham is a top congressional critic of President Obama’s foreign policy and recently linked Russia’s invasion of Crimea to State Department failings in the 2012 killing of four Americans in Benghazi. And such alleged connections are fueling discussion among his constituents. “At Rotary clubs, chambers of commerce and Republican Party events, it totally dominates. Talk about President Obama’s foreign policy failing and you get almost complete agreement on the Republican side,” Graham said. ¶ Lawmakers on both sides of the aisle generally agree that the United States should impose severe penalties on Russia for its aggression in Ukraine. Given that more than two-thirds of Americans consider Russia a threat to the U.S., it’s not a hard position to take. But arguments over the legislative specifics reflect the partisan divide, and the debate has grown contentious, delaying movement on a bill to aid Ukraine and impose further sanctions. ¶ Hoping to speed up the process, Democrats on Tuesday conceded to Republicans by introducing new legislation authorizing $1 billion in loan guarantees for Ukraine without reforms to the way the International Monetary Fund delivers financial aid -- changes long sought by the White House. The Senate passed an aid bill, with additional sanctions for Russian officials, on Monday night, but the measure faced opposition in the House (where a separate aid bill passed earlier this month) over the IMF language. ¶ “I feel very strongly about IMF reform, we need to get that done and we need to get it done just as quickly as we can," Majority Leader Harry Reid said Tuesday. "But this bill is important. As John Kerry said yesterday, he wants both of them, but the main thing is to get the aid now, and I'm following his lead." ¶ On Monday, Reid accused Republicans of possibly emboldening Russia to take over Crimea by delaying passage of the aid and sanctions package. ¶ Senate Foreign Relations Committee Chairman Bob Menendez reluctantly agreed to drop the IMF language, but blamed the opposition party. “I cannot believe House Republicans will not put national security interests above their partisan political interest,” he said. “... Politics clearly don’t stop at the water’s edge on this issue." ¶ While the GOP clearly hopes to make Russia an election issue, it’s unclear whether it will be an effective one. Congressional elections are most often decided on a few fundamentals, primarily the condition of the economy, the president’s popularity, and the quality of the candidates. When a single issue becomes central in an election, it’s usually a domestic one that directly affects voters -- like the Affordable Care Act. Still, there have been exceptions: In 2006, the last time a two-term president faced his second round of midterm elections, Democrats rode a wave of dissatisfaction over President Bush’s handling of the Iraq War to retake control of Congress. ¶ Will 2014 be another year when foreign policy proves crucial to flipping a chamber? Probably not. ¶ Republican National Committee Chairman Reince Priebus has repeatedly said that GOP opposition to the ACA will be the preeminent issue in November. Priebus’ Democratic counterpart, Rep. Debbie Wasserman Schultz, has said that Democrats will campaign on the law. And if the special election in Florida’s 13th Congressional District earlier this month is any indicator, Obama’s signature legislation will indeed command the campaign spotlight. ¶ But that doesn’t mean U.S.-Russia tensions will fade into obscurity between now and Nov. 4. If confrontations continue and Ukraine’s future remains uncertain, foreign policy may very well loom large in voters’ minds. Of course, Russia’s annexation of Crimea has not angered or upset Americans as much as the crumbling situation in Iraq --where tens of thousands of U.S. troops were at risk -- did in 2006. But Obama’s perceived weakness abroad could continue to hurt his approval ratings, along with vulnerable Democratic incumbents whose fates are in part tied to the president’s popularity. ¶ Asked if the party would try to tie those Democrats to the president’s Russia policy, RNC spokesman Raffi Williams told RealClearPolitics that “Obama and Democrat senators’ policies just haven't worked out like they promised Americans. From ObamaCare to the economy to foreign policy, we've seen ineffective leadership and disappointing results.” ¶ Some at-risk Democrats up for re-election this year are trying to use Putin’s behavior to their advantage and are receiving positive press back home for it. Louisiana Sen. Mary Landrieu, chair of the Energy Committee, was one of nine U.S. officials targeted by Kremlin counter-sanctions and barred from entering Russia. She described the action taken against her as “a badge of honor,” and used the issue to push for increasing U.S. natural gas exports to Europe and thus ease those countries’ reliance on Russia as an energy source. ¶ Most Democratic operatives, saying that voters are more concerned with the economy, are pushing issues like “paycheck fairness” and increasing the minimum wage. The strategy also assumes that foreign policy discussions will be played out in Republican primaries but not in general election matchups. ¶ However, Republicans have long focused on tying red state Democratic senators to Obamacare, and recent world events may be adding to the burdensome baggage of those lawmakers. If Americans continue to see Putin and Obama sparring during the evening news, they’ll likely also see more on the issue during the commercial breaks.

### 2AC Executive CP

#### Executive branch lawyering--- 1AC Marshall evidence--- he’ll overturn the OLC if it disagrees

Goldsmith 2013 (Jack Goldsmith, Henry L. Shattuck Professor at Harvard Law School, July 2013, “Blaming (or Crediting) the Lawyers for Our Syria Policy”, Lawfare Blog, http://www.lawfareblog.com/2013/07/blaming-or-crediting-the-lawyers-for-our-syria-policy/

First, the Obama administration has continued controversial Bush-era interpretations of international law related to intervention – such as the use of the “unwilling or unable” standard in assessing self-defense for drone strikes – when it suits their interests. Second, the administration has in other contexts interpreted international law opportunistically when it wants to intervene, such as when it read UNSCR 1973 very broadly (many say too broadly) in removing Gadhafi in Libya. Third, the President has overruled OLC on legal matters concerning domestic law when he wanted to continue an intervention (I am thinking here of the President’s disregard of OLC Libya War Powers Resolution advice), and could surely do the same with legal advice concerning international law in a similar context. And fourth, according to both the WSJ and the NYT, the administration eventually went forward with the military aid to certain Syrian rebels in any event, even though it could not find a justification to do so under international law – but it did so through CIA covert action rather than through more open channels.¶ I have no doubt that law and lawyers and concern for creating unfavorable precedents are influencing this debate inside the administration. But the responsibility for the halting nature and scope of the USG’s intervention in Syria cannot be placed on the lawyers’ shoulders. It rests with the President, who has plenty of legal room for more aggressive intervention if he wants to do more. (For what it is worth, I find the President’s reluctance to intervene admirable and appropriate – but I think that he alone, and not the lawyers, deserves credit, or blame, for our Syria policy.)

#### Executive fails--- presidential declarations aren’t trusted as honest

Bunn & du Preez 2007 (George Bunn and Jean du Preez, First general counsel at U.S. Arms Control and Disarmament Agency & Director of the International Organizations and Nonproliferation Program at Monterey Institute of International Studies, “More Than Words: The Value of U.S. Non-Nuclear-Use Promises,” Arms Control Today, July/August 2007, pg. http://www.armscontrol.org/act/2007\_07-08/NonUse)

Taking Back the Promises: The Clinton and Bush Legacies Soon after the U.S. representative made the promise of nonuse before the Security Council in 1995, the Department of Defense began urging exceptions to it. Probably as a result of this view, the Clinton administration argued that even under a nonuse commitment in a treaty such as the Latin American nuclear-weapon-free zone treaty, the United States would not be bound to refrain from a nuclear response to a chemical or biological attack from a member of the nuclear-weapon-free zone. President Bill Clinton’s secretary of defense, William Perry, said publicly that “if some nation were to attack the United States with chemical weapons, then they would fear the consequences of a response with any weapon in our inventory…. We could make a devastating response without use of nuclear weapons, but we would not forswear that possibility.“[6] In addition, NATO retained the option to use nuclear weapons first in future conflicts and, like the United States, reaffirmed its right to use nuclear weapons against a chemical or biological attack.[7] Thus, the United States and NATO refused to accept the NSAs as legally binding prohibitions on their use of nuclear weapons against non-nuclear-weapon NPT members. Toward the end of his administration, Clinton approved a modification of the B61-11 nuclear warhead for use as a “bunker buster” to attack biological or chemical weapons stored underground in hostile countries, weapons that U.S. officials believed could threaten the United States and its allies. Potential enemies, including some nonaligned countries, were suspected of digging deep underground bunkers for the purpose of sheltering biological or chemical weapons from enemy attack. The proposed bunker-buster nuclear weapons were intended to destroy these bunkers and what they contained before the biological or chemical weapons could be used in an attack on the United States or its allies. The Bush administration further changed U.S. nuclear weapons-use policy after the terrorist attacks of 2001. The Defense Department’s December 2001 Nuclear Posture Review (NPR), parts of which were made public in early 2002, reasserted the Clinton administration’s desire for earth-penetrating nuclear weapons to destroy biological weapons stored underground by an enemy. This position assumed first use of nuclear weapons in that engagement. In response to questions raised by this provision of the 2001 NPR, a Department of State spokesperson repeated the 1995 NSA that had been given by the United States to help gain votes for the extension of the NPT that year. He added that “the policy says that we will do whatever is necessary to deter the use of weapons of mass destruction against the United States, its allies, and its interests. If a weapon of mass destruction is used against the United States or its allies, we will not rule out any specific type of military response.” In September 2002, President George W. Bush issued a White House National Security Strategy (NSS) that declared that “rogue states and terrorists” were determined to acquire biological and chemical weapons and that the United States might one day need to use nuclear weapons to deal with such an acquisition. The statement seemed to call for the use of U.S. weapons, including nuclear ones, to destroy biological or chemical weapons before either could be used. [W]e must be prepared to stop rogue states and their terrorist clients before they are able to threaten or use weapons of mass destruction against the United States and our allies and friends…. If the legitimacy of preemption [by the United States is to depend] on the existence of an imminent threat, [we] must adapt the concept of legitimate threat to the capabilities and objectives of today’s adversaries [who] rely on acts of terror and, potentially, the use of weapons of mass destruction—weapons that can be easily concealed, delivered covertly, and used without warning…. The greater the threat, the greater the risk of inaction—and the more compelling the case for taking anticipatory action. To forestall such hostile attacks, the United States will, if necessary, act preemptively.[8] Under this strategy, preemptive action by the United States might include the use of nuclear weapons to counter a chemical weapon attack or to destroy a potential enemy’s stocks of biological weapons before they could be used. In the December 2002 “National Strategy to Combat Weapons of Mass Destruction,” the Bush administration added that U.S. counterproliferation forces “must possess the full range of operational capabilities to counter the threat and use of [weapons of mass destruction] by states and terrorists against the United States, our military forces, and friends and allies.”[9] These statements suggest that the United States reserves the right to first use of nuclear weapons to retaliate against attacks using chemical or biological weapons or to destroy enemy chemical or biological weapons stockpiles before they can be used in an attack.[10] Perhaps to implement such a strategy, the administration proposed a new nuclear warhead to Congress, the Robust Nuclear Earth Penetrator (RNEP). It was supposed to be used to attack “hard and deeply buried targets,” such as underground storage sites for biological and chemical weapons. Congress cut out the funds proposed by the Bush administration for the development of RNEP in the appropriations for the Department of Energy for the fiscal years 2005 and 2006. The department did not request such funds for fiscal years 2007 or 2008. The Bush administration in various ways has said that it is not bound to refrain from the use of nuclear weapons against non-nuclear-weapon NPT states-parties who attack with biological or chemical weapons. Indeed, the United States may well have contributed to the failure of the 2005 NPT review conference by refusing even to discuss NSAs there. If the security assurances provided by the United States to non-nuclear-weapon NPT members in 1995 appear to these members to have less value as result of the Bush administration’s statements, will this reduce the motivation of some NPT members to stay within the NPT? The Future of Negative Security Assurances To states without nuclear weapons not allied to states that do have them, a credible promise by the five NPT nuclear-weapon states not to use nuclear weapons against them should have value. Judging by the demands for such assurances from NAM, the largest caucus of NPT non-nuclear-weapon parties, the quest for legally binding NSAs will continue despite opposition from the United States and most of the P-5. At the 2000 NPT review conference, these NAM states together with the New Agenda Coalition (NAC), a smaller coalition of non-nuclear-weapon nations formed in 1998 to advance nuclear disarmament, were successful in extracting a clear acknowledgement by all NPT parties, in particular the P-5, that legally binding NSAs would strengthen the nonproliferation regime. The final document of the 2000 review conference also called on the Preparatory Committee (PrepCom) for the 2005 review conference to make recommendations on this issue. Despite several concrete proposals, including a draft nonuse protocol to the NPT submitted by the NAC, the PrepCom made no such recommendations. Indeed, the final PrepCom in 2004 reported Washington’s perception that the post-September 11, 2001, security environment obviated “any justification for expanding NSAs to encompass global legally binding assurances.” The U.S. delegation reacted to the PrepCom chairman’s summary by stating emphatically, “We did not, do not, and will not agree as stated in the summary that efforts to conclude a universal, unconditional, and legally binding instrument on security assurances to non-nuclear-weapon states should be pursued as a matter of priority.” This message foreshadowed Washington’s position at the 2005 conference, where it asserted that “the very real nuclear threats from NPT violators and non-state actors” eclipses the “relevance of non-use assurances.” An acrimonious debate about security assurances was among the reasons for the failed 2005 NPT review conference. The United States refused even to discuss them seriously at this conference or at its preparatory meetings, saying: [T]he end of the Cold War has further lessened the relevance of non-use assurances from the P-5 to the security of NPT [non-nuclear-weapon states], particularly when measured against the very real nuclear threats from NPT violators and non-state actors.… [L]egally binding assurances sought by the majority of states have no relation to contemporary threats to the NPT.[11] Options for the Next Administration Attempts to negotiate NSAs with the United States under the Bush administration seem impractical, but the next U.S. administration needs to take up the issue in time for the 2010 NPT review conference. As with the 1995 conference, the United States should lead a P-5 initiative prior to the 2010 conference to reaffirm political pledges not to use or threaten to use nuclear weapons against non-nuclear-weapon states. To build confidence in its nuclear intentions, it should allow the conference to establish a mechanism to consider ways to provide legally binding NSAs. In this regard, a new administration could consider several options. One option would be approval of another UN Security Council resolution going beyond the one adopted prior to the 1995 conference. Such a resolution of security assurances to NPT non-nuclear-weapon parties in full compliance with their obligations could include two key components. It could recognize that legally binding security assurances to non-nuclear-weapon NPT members in full compliance with their nonproliferation obligations would strengthen the nuclear nonproliferation regime and that the Security Council should consider taking action against any nation threatening to use nuclear weapons against a non-nuclear-weapon NPT member. Although the first of these two parts would go a long way to address the concerns of many states that the United States and the other nuclear-weapon NPT members have weakened their NSA promises, the second statement would address the security of non-nuclear-weapon NPT members not aligned with any of the P-5. In light of the Bush administration’s insistence that the 1995 U.S. assurances, offered essentially to gain support for the indefinite extension of the NPT and recognized by the Security Council, are not legally binding on the United States, and that these assurances do not preclude the United States from preemptory attacks upon underground hiding places for biological or chemical weapons, the solemn declarations made by the United States and other P-5 members are now regarded as of little value by these non-nuclear-weapon NPT members. Unless a post-2008 U.S. administration wins back the confidence of these nonaligned states that U.S nuclear policies are not aimed at them, any approach through the Security Council would be unappealing.

#### Only statutory restrictions solves separation of powers

Fisher 1997 (Louis Fisher, Specialist in Constitutional Law with the Law Library at the Library of Congress, “Presidential Independence and the Power of the Purse”, U.C. Davis Journal of International Law & Policy, Spring, 3 U.C. Davis J. Int'l L. & Pol'y 107, Lexis)

VII. CONCLUSIONS The shift of the war power from Congress to the President belies a core belief by the framers that each branch would protect its own prerogatives. They believed that a powerful dynamic of institutional self-defense would safeguard the system of separation of powers. n191 Instead, Congress repeatedly surrenders its powers to the President. Congress contributes to presidential independence by conferring substantial spending discretion by statute and by declining to challenge the growing customary spending discretion that Presidents assume. n192 While custom changes power and relationships, at least in the area of the war power, it does not change the Constitution. If Congress slept for decades and allowed President to singlehandedly commit the nation to war, and one day Congress awoke from its slumbers to pass legislation telling the President that he may not use funds for a pending military action, that is the end of it. The congressional action, no matter how late in the day, would prevail. If we want to reestablish some of the fundamental principles established by the framers, several steps are necessary. For reasons that have both constitutional and practical dimensions, U.S. foreign policy must be conducted only with funds appropriated by Congress. Allowing the President to carry out foreign policy with private or foreign contributions would create a political system the framers feared most: the union of purse and sword. The framers deliberately separated those powers to protect individual liberties. Fusing the powers in today's world creates dangers far greater than in 1787. At the Iran-Contra hearings, Secretary of State George Shultz repudiated the idea of using nonappropriated funds for foreign policy: "You cannot spend funds that the Congress doesn't either authorize you to obtain or appropriate. That is what the Constitution says, and we have to stick with it." n193 The President may not spend funds "in the name of the United States [\*139] except as appropriated by Congress." n194 Members of Congress continue to use the power of the purse to direct the President in foreign affairs and war, but increasingly they exhibit a lack of institutional self-confidence. They do not function like a coequal branch. A greater number of legislators believe that the Constitution, whatever its original purpose, now gives the lion's share (if not the exclusive share) of foreign policy and the war power to the President. The result is statutory language and legislative histories that are conspicuously vague and contradictory. It is not unusual to see legislative principles expressed in non-binding form, merely announcing the "sense" of Congress on a matter of national urgency. Non-binding resolutions are not totally without effect. They at least can be cited as evidence that Congress has not completely acquiesced to presidential actions. n195 But if members of Congress want to participate in questions of war and peace on a coequal basis and with maximum effectiveness, they must do so through explicit statutory commands, not sense-of-Congress resolutions. The framers did not create Congress -- the first branch of government -- to debate and release general, non-binding declarations. Nor is it consistent with the Constitution for executive officials to merely "consult" legislators before they act. The purpose of Congress is to authorize national policy, especially in military affairs.

#### Self-restraint fails--- future presidents and crisis psychology

Healy 2009 (Gene Healy, The Cult of the Presidency: America’s Dangerous Devotion to Executive Power, 2009 p. 308-309)

Laudable as it is, though, presidential self-restraint is far from a robust or lasting solution to the imperial presidency. Executive orders can be overturned, and personnel can be changed – by future presidents, or by this president should political conditions change. The threat of terrorism is no longer as vivid in the public mind as it was a few years ago but all that could change quite rapidly. If a bomb goes off in a subway or terrorist carries out a shooting spree at a shopping mall, it will be very difficult for any president – particularly one with political opponents eager to paint him as “soft on terror” to resist pushing his authority beyond constitutional limits. Lasting restraint needs to come from external sources: the courts, the Congress, and the general public. The Supreme Court has lately shown greater willingness to check presidential power in foreign affairs. However, there’s little evidence that the public has moderated its demands for bold presidential action to solve all manner of problems. And Congress remains as pliable as ever.

### 2AC Saudi Arabia CP

#### Being less willing to intervene boosts alliances--- discourages free riding

Walt 2011 (Stephen M. Walt, professor of international affairs at Harvard University's John F. Kennedy School of Government, December 5, 2011, “Does the U.S. still need to reassure its allies?,” Foreign Policy, http://goo.gl/hsThU)

A perennial preoccupation of U.S. diplomacy has been the perceived need to reassure allies of our reliability. Throughout the Cold War, U.S. leaders worried that any loss of credibility might cause dominoes to fall, lead key allies to "bandwagon" with the Soviet Union, or result in some form of "Finlandization." Such concerns justified fighting so-called "credibility wars" (including Vietnam), where the main concern was not the direct stakes of the contest but rather the need to retain a reputation for resolve and capability. Similar fears also led the United States to deploy thousands of nuclear weapons in Europe, as a supposed counter to Soviet missiles targeted against our NATO allies. The possibility that key allies would abandon us was almost always exaggerated, but U.S. leaders remain overly sensitive to the possibility. So Vice President Joe Biden has been out on the road this past week, telling various U.S. allies that "the United States isn't going anywhere." (He wasn't suggesting we're stuck in a rut, of course, but saying that the imminent withdrawal from Iraq doesn't mean a retreat to isolationism or anything like that.) There's nothing really wrong with offering up this sort of comforting rhetoric, but I've never really understood why U.S. leaders were so worried about the credibility of our commitments to others. For starters, given our remarkably secure geopolitical position, whether U.S. pledges are credible is first and foremost a problem for those who are dependent on U.S. help. We should therefore take our allies' occasional hints about realignment or neutrality with some skepticism; they have every incentive to try to make us worry about it, but in most cases little incentive to actually do it. Don't get me wrong: having allies around the world is useful and some attention needs to be paid to preserving intra-alliance solidarity, especially when the ally in question does have important things that we want or need. But an excessive concern for credibility encourages and enables allies to free-ride (something most of them have done for decades), and it can lead Washington to keep pouring resources into shaky endeavors lest allies elsewhere doubt our resolve. This logic is wrong-headed, because squandering billions on fruitless endeavors (see under: Afghanistan) ultimately leaves one weaker overall and eventually diminishes public support for active engagement abroad. By contrast, liquidating a costly burden enables you to rebuild and regroup and puts you in a better position to respond in places that matter. The real message that Biden and other U.S. representatives should be telling their listeners is that getting out of Iraq (and eventually Afghanistan) is going to improve America's ability to protect its real interests, and that important U.S. allies need not be that concerned. More importantly, worrying a bit less about our credibility and "playing hard to get" on occasion would have real benefits. If other states were a bit less confident that the United States would come to their aid if asked, they would be willing to do more to ensure that we would. If key U.S. allies are not entirely convinced of U.S. support no matter what they did, they would be less likely to engage in dangerous or provocative acts of their own. Moreover, playing "hard to get" reduces the likelihood that the United States will be perceived as a trigger-happy global policeman. As the cases of the Balkans in the 1990s and the recent Libyan intervention illustrate, when Washington is more reluctant to take on collective burdens, it ends up being appreciated (and less feared) when it finally does get involved. Thus, worrying a bit less about U.S. credibility is a way to get others to do more, and to resent what we do less.

### T WPA

#### Plan restricts the President’s authority over initiation of hostilities

Keynes 2010 (Edward Keynes, Professor of Political Science at Penn State University, Undeclared War: Twilight Zone of Constitutional Power, p. 163-164)

Although the zones of exclusive legislative and executive authority cannot be defined precisely, the Federal judiciary has employed the Framers’ distinction between defensive and offensive war in differentiating presidential from congressional power to wage military hostilities. Article I, Section 8 (CI. 11) of the Constitution vests exclusive power in Congress to declare war or authorize undeclared war and military hostilities. Only Congress has the constitutional authority to initiate war and military hostilities; only Congress can change the nation's condition from peace to war. Absent a declaration of war or other explicit authorizing legislation, the President has constitutional authority to defend the nation, its armed forces, and its citizens and their property against armed attack or when the threat of such an attack is imminent. Without congressional authorization, Article 2 does not confer independent constitutional authority on the President to initiate hostilities or to transform defensive military actions into offensive wars.¶ Whether Congress declares war or authorizes limited military hostilities, the legislature has ample constitutional authority to restrict presidential warmaking. Although one can question the wisdom or desirability of restricting the Presidents power to initiate military hostilities, Congress can employ its auxiliary war powers to limit presidential initiative. Congress can use its fiscal powers (to tax and spend) to regulate the size and composition of the armed forces available to the President. Congress can control military organization and the command structure through its power to make rules for the government and regulation of the land and naval forces. Congress has the authority to limit the President's power to dispatch U.S. troops abroad by enacting conscription laws that geographically restrict military service. Congress can employ its militia powers to limit the commander in chief s authority to call up the National Guard for foreign military service. Since the Constitution confers the auxiliary war powers exclusively on Congress, only the legislature can decide the wisdom or propriety of limiting the President's power to initiate war and military hostilities.¶ In addition to exercising its auxiliary war powers, some commentators suggest that Congress could employ the necessary-and-proper clause to restrict presidential warmaking. If Congress can delegate power to the executive to wage war, it can also deny such power through the necessary-and-proper clause. By emphasizing the horizontal effect of the sweeping clause (Art. 1, Sec. 8, CI. 18) and by interpreting presidential power narrowly, as William Van Alstyne implies. Congress could employ its authority to limit the commander in chiefs power to initiate military hostilities without congressional authorization. However attractive the necessary-and-proper clause appears to advocates of congressional power, there is no conclusive evidence to suggest that the Framers intended the sweeping clause as an unqualified grant of power that Congress could manipulate to reduce the executive to a mere ministerial agency.2

#### Credibility justification expands war powers

Sitaraman 2014 (Ganesh Sitaraman, Assistant Professor of Law at Vanderbilt, “Credibility and War Powers,” 127 Harv. L. Rev. F. 123, http://www.harvardlawreview.org/issues/127/january14/forum\_1024.php)

In late August 2013, after Syrian civilians were horrifically attacked with sarin gas, President Barack Obama declared his intention to conduct limited airstrikes against the Syrian regime of President Bashar al-Assad. A year earlier, President Obama had announced that the use of chemical weapons was “red line” for the United States.1 Advocates for military action now argued that if the credibility of American threats diminished, dictators would have license to act with impunity.2 President Obama himself seemed to embrace this justification for action. “The international community’s credibility is on the line,” he said in early September. “And America and Congress’s credibility is on the line.”3 ¶ For all the talk of credibility, political scientists have offered devastating critiques of credibility arguments in the context of military threats. They have demonstrated not only that the concept is often deployed in incomplete and illogical ways but also that as a historical matter, a country’s “credibility” based on its reputation and past actions has little or no effect on the behavior of opponents in high-stakes international crises. In the crises in the run-up to World War I, in the Berlin crises of the late 1950s and early 1960s, and even in the crises leading to World War II, threats from countries that had previously backed down were not seen as less credible by their opponents. In some cases, the threats were even thought to be more credible. ¶ For constitutional lawyers, this research should be particularly troubling because credibility has migrated from foreign policy into the constitutional law of war powers. In a series of opinions, including on Somalia (1992), Haiti (2004), and Libya (2011), the Justice Department’s Office of Legal Counsel (OLC) has argued that the credibility of the United Nations Security Council is a “national interest” that can justify presidential authority to use military force without prior congressional authorization.4 This Essay argues that the credibility justification for the use of force should be removed from the constitutional law of presidential war powers. Incorporating credibility as one of the “national interests” that justify presidential use of force expands the President’s war powers significantly without a legitimate policy justification.

#### Credibility education outweighs

Fettweis 2004 (Christopher J. Fettweis, assistant professor of national security affairs at the U.S. Naval War College, Ph.D. University of Maryland's Department of Government and Politics, University of Notre Dame, December 2004, “Resolute Eagle or Paper Tiger?,” http://goo.gl/xcXou)

State behavior cannot be explained absent an understanding of the forces at work within the human mind. Intangible interests, ones whose roots are psychological and inherently unmeasurable, often drive decisions in directions inexplicable to the empirical analyst. The war in Vietnam was fought more to send messages to adversaries, allies and neutrals than in pursuit of any material benefits that victory would bring. Diplomatic historian Robert McMahon spoke for the vast majority of observers when he argued that Vietnam’s importance did not derive from tangible interests, but “primarily from the meanings that others would ascribe to American actions there.” 8 The reputation and credibility of the United States was at stake, or so decision-makers thought, and those were assets well worth a fight. One cannot understand the major U.S. foreign policy actions – from Korea to Iraq – without understanding the messages that policymakers hoped to send through their actions. The conventional wisdom holds that a healthy reputation of the United States is absolutely vital for not only its national security, but for the very maintenance of world order and peace. It is this belief, which McMahon has called the “credibility imperative,” that has driven action in consistent and observable ways since the end of World War II.