1NC

# CP:

#### By executive order, the President of the United States should commit the Solicitor General & White House Counsel’s Office to advance consultation with the Office of Legal Counsel and require written publication of Office of Legal Counsel opinions over current law regarding Armed forces in Iran The President should publicly pledge to act consistent with these opinions.

#### The Office of Legal Counsel should opine that the best interpretation of current law requires <<< >>>.

#### CP competes on ‘authority’ but solves – OLC rulings are binding as settled law, but crafting reduces links to net benefits

Trevor W. Morrison, October 2010 Columbia Law Professor

“STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448.

On the other hand, an OLC that says "yes" too often is not in the client's long-run interest. n49 Virtually all of OLC's clients have their own legal staffs, including the White House Counsel's Office in the White House and the general counsel's offices in other departments and agencies. Those offices are capable of answering many of the day-to-day issues that arise in those components. They typically turn to OLC when the issue is sufficiently controversial or complex (especially on constitutional questions) that some external validation holds special value. n50 For example, when a department confronts a difficult or delicate constitutional question in the course of preparing to embark upon a new program or course of action that raises difficult or politically sensitive legal questions, it has an interest in being able to point to a credible source affirming the [\*1462] legality of its actions. n51 The in-house legal advice of the agency's general counsel is unlikely to carry the same weight. n52 Thus, even though those offices might possess the expertise necessary to answer at least many of the questions they currently send to OLC, in some contexts they will not take that course because a "yes" from the in-house legal staff is not as valuable as a "yes" from OLC. But that value depends on OLC maintaining its reputation for serious, evenhanded analysis, not mere advocacy. n53 The risk, however, is that OLC's clients will not internalize the long-run costs of taxing OLC's integrity. This is in part because the full measure of those costs will be spread across all of OLC's clients, not just the client agency now before it. The program whose legality the client wants OLC to review, in contrast, is likely to be something in which the client has an immediate and palpable stake. Moreover, the very fact that the agency has come to OLC for legal advice will often mean it thinks there is [\*1463] at least a plausible argument that the program is lawful. In that circumstance, the agency is unlikely to see any problem in a "yes" from OLC. Still, it would be an overstatement to say that OLC risks losing its client base every time it contemplates saying "no." One reason is custom. In some areas, there is a longstanding tradition - rising to the level of an expectation - that certain executive actions or decisions will not be taken without seeking OLC's advice. One example is OLC's bill comment practice, in which it reviews legislation pending in Congress for potential constitutional concerns. If it finds any serious problems, it writes them up and forwards them to the Office of Management and Budget, which combines OLC's comments with other offices' policy reactions to the legislation and generates a coordinated administration position on the legislation. n54 That position is then typically communicated to Congress, either formally or informally. While no statute or regulation mandates OLC's part in this process, it is a deeply entrenched, broadly accepted practice. Thus, although some within the Executive Branch might find it frustrating when OLC raises constitutional concerns in bills the administration wants to support as a policy matter, and although the precise terms in which OLC's constitutional concerns are passed along to Congress are not entirely in OLC's control, there is no realistic prospect that OLC would ever be cut out of the bill comment process entirely. Entrenched practice, then, provides OLC with some measure of protection from the pressure to please its clients. But there are limits to that protection. Most formal OLC opinions do not arise out of its bill comment practice, which means most are the product of a more truly voluntary choice by the client to seek OLC's advice. And as suggested above, although the Executive Branch at large has an interest in OLC's credibility and integrity, the preservation of those virtues generally falls to OLC itself. OLC's nonlitigating function makes this all the more true. Whereas, for example, the Solicitor General's aim of prevailing before the Supreme Court limits the extent to which she can profitably pursue an extreme agenda inconsistent with current doctrine, OLC faces no such immediate constraint. Whether OLC honors its oft-asserted commitment to legal advice based on its best view of the law depends largely on its own self-restraint. 2. Formal Requests, Binding Answers, and Lawful Alternatives. - Over time, OLC has developed practices and policies that help maintain its independence and credibility. First, before it provides a written opinion, n55 OLC typically requires that the request be in writing from the head or general counsel of the requesting agency, that the request be as specific and concrete as possible, and that the agency provide its own written [\*1464] views on the issue as part of its request. n56 These requirements help constrain the requesting agency. Asking a high-ranking member of the agency to commit the agency's views to writing, and to present legal arguments in favor of those views, makes it more difficult for the agency to press extreme positions. Second, as noted in the Introduction, n57 OLC's legal advice is treated as binding within the Executive Branch until withdrawn or overruled. n58 As a formal matter, the bindingness of the Attorney General's (or, in the modern era, OLC's) legal advice has long been uncertain. n59 The issue has never required formal resolution, however, because by longstanding tradition the advice is treated as binding. n60 OLC protects that tradition today by generally refusing to provide advice if there is any doubt about whether the requesting entity will follow it. n61 This guards against "advice-shopping by entities willing to abide only by advice they like." n62 More broadly, it helps ensure that OLC's answers matter. An agency displeased with OLC's advice cannot simply ignore the advice. The agency might [\*1465] construe any ambiguity in OLC's advice to its liking, and in some cases might even ask OLC to reconsider its advice. n63 But the settled practice of treating OLC's advice as binding ensures it is not simply ignored. In theory, the very bindingness of OLC's opinions creates a risk that agencies will avoid going to OLC in the first place, relying either on their general counsels or even other executive branch offices to the extent they are perceived as more likely to provide welcome answers. This is only a modest risk in practice, however. As noted above, legal advice obtained from an office other than OLC - especially an agency's own general counsel - is unlikely to command the same respect as OLC advice. n64 Indeed, because OLC is widely viewed as "the executive branch's chief legal advisor," n65 an agency's decision not to seek OLC's advice is likely to be viewed by outside observers with skepticism, especially if the in-house advice approves a program or initiative of doubtful legality. OLC has also developed certain practices to soften the blow of legal advice not to a client's liking. Most significantly, after concluding that a client's proposed course of action is unlawful, OLC frequently works with the client to find a lawful way to pursue its desired ends. n66 As the OLC Guidelines put it, "when OLC concludes that an administration proposal is impermissible, it is appropriate for OLC to go on to suggest modifications that would cure the defect, and OLC should stand ready to work with the administration to craft lawful alternatives." n67 This is a critical component of OLC's work, and distinguishes it sharply from the courts. In addition to "providing a means by which the executive branch lawyer can contribute to the ability of the popularly-elected President and his administration to achieve important policy goals," n68 in more instrumental terms the practice can also reduce the risk of gaming by OLC's clients. And that, in turn, helps preserve the bindingness of OLC's opinions. n69 [\*1466] To be sure, OLC's opinions are treated as binding only to the extent they are not displaced by a higher authority. A subsequent judicial decision directly on point will generally be taken to supersede OLC's work, and always if it is from the Supreme Court. OLC's opinions are also subject to "reversal" by the President or the Attorney General. n70 Such reversals are rare, however. As a formal matter, Dawn Johnsen has argued that "the President or attorney general could lawfully override OLC only pursuant to a good faith determination that OLC erred in its legal analysis. The President would violate his constitutional obligation if he were to reject OLC's advice solely on policy grounds." n71 Solely is a key word here, especially for the President. Although his oath of office obliges him to uphold the Constitution, n72 it is not obvious he would violate that oath by pursuing policies that he thinks are plausibly constitutional even if he has not concluded they fit his best view of the law. It is not clear, in other words, that the President's oath commits him to seeking and adhering to a single best view of the law, as opposed to any reasonable or plausible view held in good faith. Yet even assuming the President has some space here, it is hard to see how his oath permits him to reject OLC's advice solely on policy grounds if he concludes that doing so is indefensible as a legal matter. n73 So the President needs at least a plausible legal basis for [\*1467] disagreeing with OLC's advice, which itself would likely require some other source of legal advice for him to rely upon. The White House Counsel's Office might seem like an obvious candidate. But despite recent speculation that the size of that office during the Obama Administration might reflect an intention to use it in this fashion, n74 it continues to be virtually unheard of for the White House to reverse OLC's legal analysis. For one thing, even a deeply staffed White House Counsel's Office typically does not have the time to perform the kind of research and analysis necessary to produce a credible basis for reversing an OLC opinion. n75 For another, as with attempts to rely in the first place on in-house advice in lieu of OLC, any reversal of OLC by the White House Counsel is likely to be viewed with great skepticism by outside observers. If, for example, a congressional committee demands to know why the Executive Branch thinks a particular program is lawful, a response that relies on the conclusions of the White House Counsel is unlikely to suffice if the committee knows that OLC had earlier concluded otherwise. Rightly or wrongly, the White House Counsel's analysis is likely to be treated as an exercise of political will, not dispassionate legal analysis. Put another way, the same reasons that lead the White House to seek OLC's legal advice in the first place - its reputation for [\*1468] providing candid, independent legal advice based on its best view of the law - make an outright reversal highly unlikely. n76 Of course, the White House Counsel's Office may well be in frequent contact with OLC on an issue OLC has been asked to analyze, and in many cases is likely to make it abundantly clear what outcome the White House prefers. n77 But that is a matter of presenting arguments to OLC in support of a particular position, not discarding OLC's conclusion when it comes out the other way. n78The White House is not just any other client, and so the nature of - and risks posed by - communications between it and OLC on issues OLC is analyzing deserve special attention. I take that up in Part III. n79 My point at this stage is simply that the prospect of literal reversal by the White House is remote and does not meaningfully threaten the effective bindingness of OLC's decisions.

#### OLC can resolve WPA questions quickly and effectively

Cornelia Pillard Feb 2005 Supreme Court Inst, G-town U Law, former DOJ Deputy Asst Att Gen

<http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1190&context=facpub>

Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758

Just as the SG is the federal government's chief litigator, the head of the Office of Legal Counsel is the executive branch's chief legal advisor. The Attorney General has formally delegated the legal-advice-giving part of his statutory responsibility to OLC.104 OLC has no enforcement or litigation responsibilities, and is devoted exclusively to giving legal advice. OLC's role within the executive branch has evolved over the years, with tasks calling for legal and, especially, constitutional judgment migrating to OLC, while more politicized tasks, like OLC's short involvement in vetting potential judicial nominees, being reassigned elsewhere.105 OLC's core work is to provide written and oral legal opinions to others within the executive branch, including the president, the Attorney General, and heads of other departments. In practice, the White House and the Attorney General are by far the most frequent requesters, often asking complex, momentous questions, frequently on short notice. OLC clients may seek opinions on matters such as the sustainability of a claim of executive privilege, or the lawfulness in a particular circumstance of a quarantine, detention, or use of military force. OLC has been consulted when troops have been sent abroad and when international criminals were arrested overseas.106 Much of OLC's work is more quotidian, including topics such as the constitutionality under the Appointments Clause of various boards and commissions, or the scope of an agency's statutory authority to alter a regulation or settle a case in a particular way. Its opinions "involve domestic problems, international issues, pet plans of bureaucrats, the application of the Constitution and the laws to administrative policies and procedures, the powers and jurisdictions of departments and agencies, the advisability of contemplated actions, [and various mundane and] momentous matters." 107 OLC traditionally requires that requests for advice come from the head or general counsel of the requesting agency, that advice-seekers submit their own view of the question to OLC, and that independent agencies (not already presumptively bound) agree in advance to abide by the advice - even oral advice - that OLC delivers.108 The agreement to be bound forestalls opportunistic advice-shopping by entities willing to abide only by advice they like, and it preserves the resources and authority of OLC against being treated merely as an extra source of legal research on issues that other lawyers or officials will ultimately resolve for themselves.109

# DA

#### Recent letters outline Obama sticking to liberal interpretation of war powers now

Sievers 6/18 Lisa Sievers, reporter for BioPrepWatch, “President Obama writes letter to Congress on War Powers Resolution”, Citing letter from Obama addressing congress, BioprepWatch, June 18th, 2013, http://www.bioprepwatch.com/news/president-obama-writes-letter-to-congress-on-war-powers-resolution/330823/

U.S. President Barack Obama wrote a letter to Congress on Thursday in reference to the War Powers Resolution to inform it of U.S. Armed Forces deployments equipped for combat.¶ “I am providing this supplemental consolidated report, prepared by my Administration and consistent with the War Powers Resolution (Public Law 93-148), as part of my efforts to keep the Congress informed about deployments of U.S. Armed Forces equipped for combat,” Obama said.¶ In the report, Obama covered all deployments of U.S. Armed Forces, ranging from counterterrorism to aid in Central Africa to NATO operations. The President disclosed how many soldiers were sent to each area, their whereabouts and allies in the region.¶ “The United States has deployed U.S. combat-equipped forces to enhance the counterterrorism capabilities and support the counterterrorism operations of our friends and allies, including special operations and other forces for sensitive operations in various locations around the world,” Obama said.¶ To combat al-Qaida, the Taliban and associated forces, the U.S. has deployed Armed Forces to Afghanistan, Somalia, Yemen and Cuba. The U.S. is relying heavily upon allies in the region to intercept terrorist attacks and keep regional security intact.¶ There are 100 military personnel deployed in Central Africa to combat the Lord’s Resistance Army and the atrocities it’s caused across South Sudan, Central African Republic and the Democratic Republic of Congo. There are also 690 military personnel stationed in Egypt assigned to the U.S. Contingent of the Multinational Force and Observers.¶ The U.S. has maritime military personnel stationed at each geographic combatant command and stationed in Kosovo to aid NATO with its objectives. Lastly, there are U.S. troops deployed with the purpose of upholding regional security in Libya and Central Africa.¶ “I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional and statutory authority as Commander in Chief (including the authority to carry out Public Law 107-40 and other statutes) and as Chief Executive, as well as my constitutional and statutory authority to conduct the foreign relations of the United States,” Obama said. “Officials of my Administration and I communicate regularly with the leadership and other members of Congress with regard to these deployments, and we will continue to do so.”

#### Their claim that only legal restrictions can solve misses the boat on the relationship between the president and the law – executive powers are constantly changing and evolving to suit national interests

Mayer 01— Professor of Political Science at University of Wisconsin has many Published books about Presidential power(2001, Kenneth R, “With the Stroke of a Pen: Executive Orders and Presidential Power”, Princeton University Press, book, 16)

As characterized by adherents of the political paradigm, **the legal approach to presidential power failed because it held to the notion that the law is a set of objective, external, and autonomous principles that provides definitive answers to questions of presidential power.** Moreover, in the political behavior paradigm, the president either has the authority to act unilaterally or he does not, and most of the time he does not, so **there is more to gain from studying the informal basis of presidential action—leadership, persuasion, agenda setting, congressional relations, public opinion, and so on—than there is in studying the legal sources of presidential power.** Once the relationship between legal authority and presidential power is constructed this way, it is easy to conclude that **legal questions are of little relevance to presidents as they pursue their strategic political interests.** **The relationship between law and presidential power need not be tied down to either artificially anchored end of the law–politics spectrum. The reality is much more reciprocal: the law both constrains presidential actions and is shaped by them. The president has become,** many have argued, **far more powerful than the Framers could have envisioned**, even though the constitutional provisions regarding the office “have not changed at all since they were ratified in 1787.”78 **This is not**, however, **because presidents have become better at finding ways around constitutional constraints. Instead, it reflects a more complicated dynamic between presidents and the law. The scope of the executive legal power is not fixed, but changes over time** in response to evolving doctrines of constitutional interpretation, new institutional arrangements within the executive branch, congressional delegations of statutory authority to the president, history, and precedents established by individual chief executives. **Given that the distribution of authority under separation of powers depends on legal interpretations with many characteristics of “common law constitutionalism,”79 practice matters.**

#### Specifically, Congressional limits on troop deployment undermine presidential power

Elsea Et al 8 (Legislative Attorneys, American Law Divison, Congressional Research Service, “Congressional Authority to limit U.S. Military Operations in Iraq” PDF, updated February 27th, 2008, <http://www.fas.org/sgp/crs/natsec/RL33837.pdf>)

**The Constitution accords Congress with ample authority to regulate the use of military personnel**. Among other things, Congress is designated with the power “To raise and support Armies;” “To provide and maintain a Navy;” “To make Rules for the Government and Regulation of the land and naval Forces;” and “To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States.”158 **In the 110th Congress, several legislative proposals have been introduced that would limit the deployment of certain military personnel to Iraq**.159 Some have argued that **congressional action limiting the use of particular troops during wartime would, at least in certain circumstances, infringe upon the President’s authority as commander in chief to conduct a military campaign in a manner that he deems appropriat**e.160 As a matter of historical practice, Congress has occasionally imposed limitations and other requirements on the deployment of U.S. troops, including during wartime. These limitations have been effectuated either through the statutory prohibition on the use of military personnel for a particular purpose, or via the denial of appropriations in support of a particular operation.

#### Prez powers key to check North Korea and Middle East conflict

Boyer ’05 Spencer P. Boyer¶ Executive Director and¶ War Powers Initiative Director DECIDING TO USE¶ FORCE ABROAD:¶ WAR POWERS¶ in a System of¶ CHECKS AND BALANCES <http://www.constitutionproject.org/pdf/28.pdf> 2005

Just as the threats were now often “internationalized” — that is, directed at international,¶ not just national, security — so, too, was the President’s claim of authority. In Korea,¶ an American President responded for the first time in our history with massive and¶ sustained armed force to a threat posed by a foreign state without seeking a declaration¶ of war or specific authorization from Congress. Instead, some proponents of the use 1990, some proponents of Operation Desert Storm cited similar authorization for the¶ President to send almost 500,000 U.S. troops to oust Iraq from Kuwait before be obtained¶ congressional authorizations. In 1999, President Clinton ordered U.S. airplanes to join¶ “in coalition with our NATO allies” in launching air strikes on the Federal Republic of¶ Yugoslavia without prior congressional authorization after they had been ordered by¶ the NATO Secretary General.6 In these cases, an asserted justification of the use of force¶ abroad was that it was authorized by an international organization or by international law¶ to enforce international peace and security.

# K:

#### Their security reps are inaccurate and cause action-reaction cycles. Such cycles are the root of violence and make extinction inevitable.

Der Derian 98 (James, Professor of Political Science – University of Massachusetts, On Security, Ed. Lipschutz, p. 24-25)

No other concept in international relations packs the metaphysical punch, nor commands the disciplinary power of "security." In its name, peoples have alienated their fears, rights and powers to gods, emperors, and most recently, sovereign states, all to protect themselves from the vicissitudes of nature--as well as from other gods, emperors, and sovereign states. In its name, weapons of mass destruction have been developed which have transfigured national interest into a security dilemma based on a suicide pact. And, less often noted in international relations, in its name billions have been made and millions killed while scientific knowledge has been furthered and intellectual dissent muted. We have inherited an ontotheology of security, that is, an a priori  argument that proves the existence and necessity of only one form of security because there currently happens to be a widespread, metaphysical belief in it. Indeed, within the concept of security lurks the entire history of western metaphysics, which was best described by Derrida "as a series of substitutions of center for center" in a perpetual search for the "transcendental signified." Continues... [7](http://libcat1.cc.emory.edu:32888/20050307122932441313c0=www.ciaonet.org:80/book/lipschutz/lipschutz12.html#note7) In this case, Walt cites IR scholar Robert Keohane on the hazards of "reflectivism," to warn off anyone who by inclination or error might wander into the foreign camp: "As Robert Keohane has noted, until these writers `have delineated . . . a research program and shown . . . that it can illuminate important issues in world politics, they will remain on the margins of the field.' " [8](http://libcat1.cc.emory.edu:32888/20050307122932441313c0=www.ciaonet.org:80/book/lipschutz/lipschutz12.html" \l "note8) By the end of the essay, one is left with the suspicion that the rapid changes in world politics have triggered a "security crisis" in security studies that requires extensive theoretical damage control. What if we leave the desire for mastery to the insecure and instead imagine a new dialogue of security, not in the pursuit of a utopian end but in recognition of the world as it is, other than us ? What might such a dialogue sound like? Any attempt at an answer requires a genealogy: to understand the discursive power of the concept, to remember its forgotten meanings, to assess its economy of use in the present, to reinterpret--and possibly construct through the reinterpretation--a late modern security comfortable with a plurality of centers, multiple meanings, and fluid identities. The steps I take here in this direction are tentative and preliminary. I first undertake a brief history of the concept itself. Second, I present the "originary" form of security that has so dominated our conception of international relations, the Hobbesian episteme of realism. Third, I consider the impact of two major challenges to the Hobbesian episteme, that of Marx and Nietzsche. And finally, I suggest that Baudrillard provides the best, if most nullifying, analysis of security in late modernity. In short, I retell the story of realism as an historic encounter of fear and danger with power and order that produced four realist forms of security: epistemic, social, interpretive, and hyperreal. To preempt a predictable criticism, I wish to make it clear that I am not in search of an "alternative security." An easy defense is to invoke Heidegger, who declared that "questioning is the piety of thought." Foucault, however, gives the more powerful reason for a genealogy of security: I am not looking for an alternative; you can't find the solution of a problem in the solution of another problem raised at another moment by other people. You see, what I want to do is not the history of solutions, and that's the reason why I don't accept the word alternative. My point is not that everything is bad, but that everything is dangerous, then we always have something to do. The hope is that in the interpretation of the most pressing dangers of late modernity we might be able to construct a form of security based on the appreciation and articulation rather than the normalization or extirpation of difference. Nietzsche transvalues both Hobbes's and Marx's interpretations of security through a genealogy of modes of being. His method is not to uncover some deep meaning or value for security, but to destabilize the intolerable fictional identities of the past which have been created out of fear, and to affirm the creative differences which might yield new values for the future. Originating in the paradoxical relationship of a contingent life and a certain death, the history of security reads for Nietzsche as an abnegation, a resentment and, finally, a transcendence of this paradox. In brief, the history is one of individuals seeking an impossible security from the most radical "other" of life, the terror of death which, once generalized and nationalized, triggers a futile cycle of collective identities seeking security from alien others--who are seeking similarly impossible guarantees. It is a story of differences taking on the otherness of death, and identities calcifying into a fearful sameness.

#### The quest for survival destroys all human values-this outweights and turns extinction

Callahan 73, (Daniel Callahan, Co-founder and former director of The Hastings Institute, PhD in philosophy from Harvard University, “The Tyranny of Survival” 1973, p 91-93)

There seems to be no imaginable evil which some group is not willing to inflict on another for the sake of survival, no rights, liberties or dignities which it is not ready to suppress. It is easy, of course, to recognize the danger when survival is falsely and manipulatively invoked. Dictators never talk about their aggressions, but only about the need to defend the fatherland, to save it from destruction at the hands of its enemies. But my point goes deeper than that. It is directed even at a legitimate concern for survival, when that concern is allowed to reach an intensity which would ignore, suppress, or destroy other fundamental human rights and values. The potential tyranny of survival as a value is that it is capable, if not treated sanely, of wiping out all other values, Survival can become an obsession and a disease, provoking a destructive singlemindedness that will stop at nothing. We come here to the fundamental moral dilemma. If, both biologically and psychologically, the need for survival is basic to man, and if survival is the precondition for any and all human achievements, and if no other rights make much sense without the premise of a right to life- then how will it be possible to honor and act upon the need for survival, without in the process, destroying everything in human beings which makes them worthy of survival? To put it more strongly,if the price of survival is human degradation, then there is no moral reason why an effort should be made to ensure that survival. It would be the Pyrrhic victory to end all Pyrrhic victories Yet it would be the defeat of all defeats if, because human beings could not properly manage their need to survive, they succeeded in not doing so.

#### Reject the Aff’s security discourse – abandoning the attempt to eradicate insecurity is a prerequisite to meaningful political engagement.

Neocleous 8 [Mark, Professor of the Critique of Political Economy at Brunel University, Critique of Security, p. 185-186]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether – to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain ‘this is an insecure world’ and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security.¶ This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debates and discussions that animate political life. The constant prioritising of a mythical security as a political end – as the political end – constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible – that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it removes it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve ‘security’, despite the fact that we are never quite told – never could be told – what might count as having achieved it. Security politics is, in this sense, an anti-politics,141 dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more ‘sectors’ to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives.¶ Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that’s left behind? But I’m inclined to agree with Dalby: maybe there is no hole.142 The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up re-affirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That’s the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths.¶ For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding ‘more security’ (while meekly hoping that this increased security doesn’t damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that ‘security’ helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and ‘insecurities’ that come with being human; it requires accepting that ‘securitizing’ an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift.143

# CASE:

### A2 US Strikes Advantage

#### Obama is committed to diplomacy

GWYNNE DYER Published — Saturday October 5 2013 <http://www.arabnews.com/news/466738>

That’s why Obama took the political risk of becoming the first US president in 34 years to talk to an Iranian leader. When he addressed the General Assembly in New York, he welcomed the “more moderate course” taken by President Rowhani, who took office in August.

“The roadblocks may prove to be too great,” Obama said, “but I firmly believe the diplomatic path must be tested.”

#### No Escalation: The US won’t start a land war, Iran wont have conventional forces post strike, Iran would cave to save itself, no one would get involved.

N.**Bogdanova, 2/6**/10 (American analyst: War between US and Iran is not likely in nearest future, http://en.trend.az/news/viewpoint/1634171.html)

Recently Mr. Clawson published essay called "The Last Resort", dedicated to military situation around Iran and explain why it is believed that even if the United States or Israel used military force against Iran's nuclear program, a full-scale war was unlikely. Western countries suspect Iran of developing nuclear weapons, but Tehran categorically rejects these suspicions, mentioning the peaceful character of its nuclear program. The UN Security Council has adopted five resolutions with regards to Iran, three of which are sanctions adopted particularly because of Tehran's refusal to suspend uranium enrichment and allow IAEA inspectors to see all facilities, RIA Novosti reported. Now the Western countries, particularly the [U.S.,](http://en.trend.az/search/?str=U.S.%2C&m=a) [France](http://en.trend.az/search/?str=France&m=a) and [Great Britain](http://en.trend.az/search/?str=Great%2BBritain&m=a) insist on the prompt adoption of new sanction resolutions because of Iran's refusal to the option proposed late last year by the IAEA and the countries of the "six" (Russia, United States, China, France, Great Britain, Germany) to resolve the Iranian nuclear issue, envisaging supply of nuclear fuel to Tehran from abroad. "Some analysts worry that U.S. strikes against Iran's nuclear infrastructure could escalate into a full-scale war. Limited strikes could lead to a series of tit-for-tat responses against an ever-broadening array of targets, eventually leading to a major ground war with Iran that neither side wanted or expected. Even in the midst of a progressively escalating conflict with the Islamic Republic, however, it is very difficult to believe that the United States would launch a ground invasion of Iran," he said. American Wall Street Journal writes that the United States intensified air defense system in the [Persian Gulf to](http://en.trend.az/search/?str=Persian%2BGulf%2Bto&m=a) strengthen the [missile defense](http://en.trend.az/search/?str=missile%2Bdefense&m=a) and protection against a sudden attack by Iran. The Journal wrote that U.S. Navy increases the number of carriers [Aegis](http://en.trend.az/search/?str=Aegis&m=a) and warships in the Gulf countries. The Head of U.S. Army Central Command, who is responsible for operations in the [Middle East](http://en.trend.az/search/?str=Middle%2B%2BEast&m=a), General [David Petraeus](http://en.trend.az/search/?str=David%2BPetraeus&m=a) said that eight anti-aircraft missile complexes [Patriot](http://en.trend.az/search/?str=Patriot&m=a) were deployed in the region in January 2010. They are located in [Kuwait](http://en.trend.az/search/?str=Kuwait&m=a), [Qatar](http://en.trend.az/search/?str=Qatar&m=a), [UAE](http://en.trend.az/search/?str=UAE&m=a) and [Bahrain](http://en.trend.az/search/?str=Bahrain&m=a), where the U.S. military base is located, RBK reported. According to military analyst, "although as part of a preventive strike, the United States might attack the Iranian military to limit Iran's ability to retaliate, standoff attacks could, in a matter of weeks, destroy all major elements of Iran's conventional military forces". "Although in the course of preventive action, U.S. ground forces might unwisely seize oil platforms or islands in the Persian Gulf to prevent their use by the Iranian military or to facilitate their use by the U.S. military, actions that would almost certainly engender a nationalist backlash in Iran-anything beyond that is most unlikely," he added. Bringing Iraq experience as an example, Mr. Clawson pointed out that, U.S. political and military leaders are painfully aware that the United States lacks the forces necessary to invade, occupy, and administer a country with triple Iraq's population and four times its landmass, especially given the likelihood that a small but significant minority would be quite prepared to resist a U.S. occupation. "At the moment, the main issue for Iran's leaders is the Green Movement, which they see -- correctly or not -- as a major challenge to their hold on power.  For the next few months, that will be at the top of their agenda, not the nuclear program," he stressed.  Meanwhile, according to him, the United States and Europe who are pressing for sanctions on Iran, would not consider military force until such time as they see whether the international community can successfully press Iran to compromise. Speaking about the growth of the domestic protests in Iran he said "Iran's leaders may well decide that they cannot fight both at home and abroad, so they will compromise with the international community about the nuclear program, so that they can turn their attention to their problems at home".  Mr. Clawson mentioned that, if the Iranian government uses harsh violence to crush the protests, the international outrage will leave Iran more isolated.  "In such a situation, if Iran continues to refuse to compromise on the nuclear issue, then many governments and people around the world may conclude that Iran's leaders deserve whatever they get -- in other words, an Israeli or American use of force would be seen by many around the world as unfortunate but understandable," he added.

\* [Patrick Clawson](http://en.trend.az/search/?str=Patrick%2BClawson&m=a), external researcher at the Strategic Studies Institute of the U.S. Army War College and deputy director of the Washington Institute for Near East Policy,

#### Iran can’t retaliate – they don’t military capacity, organizational ability, or the confidence to cause significant damage.

Martin van Creveld, professor of military history at Hebrew University in Jerusalem, Tribune Media ServicesPublished: October 24, 2007. http://www.iht.com/articles/2007/10/24/opinion/edcrevald.php

Should the U.S. strike at Iran - we are talking about a strike by cruise missiles and manned aircraft, not about an invasion for which Washington does not have the troops - then Iran will have no way to hit back. Like Saddam Hussein's Iraq in 1991, Iran's most important response may well be to attack Israel, which probably explains why Iranian President Mahmoud Ahmadinejad and his generals keep making threats in that direction. Even so, they have few options. Iran's ground and naval forces are irrelevant to the mission at hand. Iran may indeed have some Shihab III missiles with the necessary range, but their number is limited and their reliability uncertain. Should the missiles carry conventional warheads, then, militarily speaking, the effect will probably be close to zero. Should they carry unconventional ones, then Iran, to quote former Israeli Prime Minister Yitzhak Shamir speaking not long before the first Gulf War, will open itself to "awesome and terrible" retaliation. Iran's air force is in an even sorrier state. Already in 1988, at the end of the Iran-Iraq War, Tehran's fleet of old American-built aircraft was barely operational. Since then, the only imports may have been some Russian-built fighters. Few people have actually seen these aircraft. Even if Iran has them, they cannot reach Israel without air-to-air refueling, making them vulnerable to being shot down. Iran must be unhappy with the Russian aircraft, or else it would hardly have embarked on building its own. This Iranian aircraft is known as the Saeqeh, or Thunderbolt. Recently shown on parade, it is a version of the American F-5 Tiger. Designed in the 1950s and upgraded in the 1960s, the F-5 was rejected by the U.S. Air Force. Instead it was sold to countries such as Iran and Jordan and several Latin American ones that did not have what it took to operate more sophisticated craft. The Saeqehs do not stand a chance against modern jets. They are only available in very small numbers, and, like the Russian fighters, they can reach Israel - if at all - only with air-to-air refueling. Another option open to Tehran is to stir up trouble in the Gulf. Presumably that is what the Revolutionary Guards' missile commander, General Mahmoud Chaharbaghi, had in mind when he said he could launch "11,000 rockets. . . within a minute." This is nonsense. Short-range and inaccurate Katyushas apart, no country has nearly that many rockets. Nor is it easy to see what would be gained by launching all of them simultaneously. Even if doing so were feasible, all it would achieve is to leave the country defenseless. Trouble in the Gulf will cause the price of oil to skyrocket, but it will not save Iran from being heavily bombed. Moreover, the missile threat is something the U.S. armed forces and its allies in the Gulf should be able to handle. Why else keep 40,000 troops (not counting those in Iraq) and two or three carrier task forces with over 25,000 personnel in the region? Iran's final option is to launch terrorist attacks against the West. However, their strategic impact will be close to zero; after all, 9/11, the largest such attack of all time, did not reduce the capability of the U.S. armed forces one bit. A coordinated terrorist campaign, unlike individual pinpricks, is easier to talk about than to organize, since too many things can go wrong. Back in 1991, people feared that Saddam Hussein was about to launch such a campaign. In the end, not one attack took place.

### A2 Proxy Wars Advantage

#### Plan doesn’t enhance moderation – it emboldens hardliners to a negative reaction.

Muhammad Sahimi, a professor at the University of Southern California in Los Angeles Oct 1

Make a deal with Rouhani: Iran has hawks too <http://www.aljazeera.com/indepth/opinion/2013/09/make-a-deal-with-rouhani-iran-has-hawks-too-201392871659386684.html>

Just as the anti-Iran forces in the US are trying to scuttle any possible agreement with Iran, so also are the Iranian hard-liners. Sobh-e Sadegh, the mouthpiece of the IRGC political directorate, [criticized Rouhani's op-ed](http://ssweekly.ir/%D8%AA%D8%B9%D8%B1%DB%8C%D8%B6%DB%8C-%D8%A8%D8%B1-%DB%8C%DA%A9-%DB%8C%D8%A7%D8%AF%D8%AF%D8%A7%D8%B4%D8%AA/) [Pr.] in the Washington Postand his moderate tune. Sobh-e Sadegh [also criticized](http://ssweekly.ir/%D8%A7%D9%8A%D9%86-%D8%A8%D8%A7%D8%B1-%D9%86%D8%A7%D9%85%D9%87-511-%D8%A7%D8%B5%D9%84%D8%A7%D8%AD%E2%80%8C%D8%B7%D9%84%D8%A8-%D8%A8%D9%87-%D8%A7%D9%88%D8%A8%D8%A7%D9%85%D8%A7/) [Pr.] the aforementioned letter by the 511 Iranian figures, accusing them of begging the US to lift its sanctions. Brigadier General Masoud Jazaeri, deputy chief of staff of the armed forces for defensive culture said, "Those who rest their hopes on the United States either do not know the US and the White House, or do not know politics.” He also said that "we must be pessimistic about the United States.” Brigadier General Hossein Salami, deputy chief of the IRGC, [declared that](http://www.nasimonline.ir/TextVersion/Detail/?Id=618768&Serv=9) [Pr.] there is no flexibility in the force's strategy for dealing with what he called "the enemies of the nezaam [political system],” adding that, "heroic flexibility does not imply putting the nation under unequal [inferior] conditions [with the enemy].” Ali Nazari, another IRGC officer and head of the Organisation for Preserving and Publishing the Works of the Sacred Defense [the war with Iraq from 1980-1988],” said "if someone plays in the enemy's field, the IRGC will confront him.”

#### Rouhani is not a moderate; his agenda for Iran wouldn’t preclude proxy wars.

Nasser Sharif Sept. 9, 2013 Updated: 5:11 p.m. Iran's president a phony 'moderate' <http://www.ocregister.com/articles/iran-525001-political-rouhani.html>

By any common definition of the word, “moderate” Rouhani is anything but. Look at his proposed Cabinet to understand his agenda for Iran. Many were, in fact, senior government officials over the past 30 years. They have participated in some of the most egregious crimes of war, political suppression, and the export of terrorism and religious fundamentalism. For instance, Mostafa Pour-Mohammadi, the choice for Minister of Justice, served for years as deputy in the Ministry of Intelligence, a position that allowed him to participate in the death committees responsible for the 1988 massacre of 30,000 political prisoners. The overwhelming majority of those prisoners were activists in the Mujahedin-e Khalq. Nearly all of the massacre victims had either served prison terms imposed by the mullahs' courts or had completed such prison terms from which they had not yet been released. Only a handful survived. Hundreds of Ayatollah Ruhollah Khomeini's political opponents were hung, their corpses hurriedly buried in mass graves. Twenty-five years later, no one has been able to uncover all the details of this atrocity. Khomeini created “Amnesty Commissions,” that were, in fact, death commissions for political prisoners. The members included a representative of the Ministry of Intelligence, a religious judge and a prosecutor, with the Intelligence Ministry officer having the final say on the fate of individuals examined by the commissions. In Tehran, that official was Pour-Mohammadi. All ranking members of the Khomeini regime in 1988 were complicit in the massacre. Those who protested it were removed from office. One such individual, Ayatollah Hossein Ali Montzaeri, was Khomeini's designated successor at the time, but his protest against the massacre caused his fall from Khomeini's grace and he was sacked in March of 1989. In 2000, Montazeri published a memoir in which he revealed details of the massacre. Rouhani was the deputy commander-in-chief of Khomeini's armed forces at the time and, since 1982, a member of the regime's Supreme Defense Council. Rouhani not only knew of the massacre's planning and execution, but was in complete agreement with its perpetrators. No wonder he picked a murderer as justice minister, a slap in the face of all Iranians who are seeking justice for the tens of thousands of victims and political prisoners. Rouhani also supported Iran's program to develop nuclear weapons, is an outspoken supporter of the murderous regime of Bashar al-Assad in Syria and has actively supported the crackdown on political dissent by university students. It is all very well and good for Rouhani to describe himself as a moderate and to speak about greater engagement with the West. But for such words to be believable, he must back them up with specific actions.

#### No moderation possible – hardliners will rise to undercut any negotiated successes.

Daniel R. DePetris | October 5, 2013 Hardliners Let Obama-Rouhani Diplomacy Play Out, For Now

<http://atlanticsentinel.com/2013/10/hardliners-let-obama-rouhani-diplomacy-play-out-for-now/>

History suggests that at some point, an impatient faction in Washington or an influential part of the security establishment in Tehran will try to undercut negotiations, either for opportunistic reasons or for national security concerns. It was only fifteen years ago when President Mohammad Khatami, a genuine reformer, was reined in by hardliners when he explored an opening to the West. Indeed, whenever one side seems ready to negotiate, the other spurns the offer or demands that certain nonnegotiable preconditions are met before any talks can take place.

#### President can’t change anything about Iran policy- takes out aff

Caryl, 13 (Christian – senior fellow at the Legatum Institute in London, June 19, “Why Iran Can't Reform”, Foreign Policy, http://www.foreignpolicy.com/articles/2013/06/19/why\_iran\_cant\_reform?page=full)

Well, the upside is that Hasan Rowhani won on Friday's election because Iranian voters were intent on showing their leaders that they prefer as their president a man who suggests even the most minute revisions reigning order (such as vague promises to rein in the widely hated morality police). But the fact remains that, even if Rowhani wanted to implement even more far-reaching changes, Iran's current power structure gives the president minimal space to do so. Iranian voters may have signaled their desire for reform by voting for Rowhani, but that doesn't mean they're any likelier to get it.

#### Proxy wars wont escalate- no military capacity – internal capacity to de-escalate

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

Yet, the Saudis, Iranians**, Jordanians,** Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in **one thing:** self-preservation**. Committing forces** to Iraq **is an inherently risky proposition**, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else’s fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. **The Middle East is a region both prone and accustomed to civil wars. But** given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East**.**

#### No ME war or escalation—motivation, expense

Miller, 2013 (Judith Miller is an award-winning writer and author, contributor to FoxNews, cites Israeli President Shimon Peres, September 23, 2013, Don't expect a new Middle East war between the states, says Israel's Shimon Peres http://www.foxnews.com/opinion/2013/09/23/dont-expect-new-middle-east-war-between-states-says-israel-shimon-peres/)

YALTA – With the nuclear stand-off with Iran and Syrian chemical weapons still threatening the strife-torn Middle East, Israeli President Shimon Peres said he did not foresee a war between states erupting in the region any time soon. Though he was speaking generally, and did not specifically mention either Israel or the United States, both of which have conducted military strikes against states seeking WMD and have threatened to carry out more strikes against Iran, Syria or others suspected of seeking unconventional weapons, Mr. Peres asserted that military action was both increasingly costly and unlikely to resolve the challenges posed by terrorists or aggressive, authoritarian states. “I don’t foresee a war. It’s too expensive,” he said, referring to the cost not only in dollars but in human lives. President Peres, who turned 90 this year, made his remarks at the 10th annual “Yalta European Strategy” conference in the Ukraine, known as “YES,” a political star-studded, two-day event sponsored by Victor Pinchuk, one of the Ukraine’s wealthiest businessmen and philanthropists. The two day meeting of more than 200 officials, former leaders, academics and analysts was held in Yalta this weekend as foreign officials and diplomats headed to New York for the annual meeting of the United Nations General Assembly. Diplomats said that Israel’s prime minister, Benjamin Netanyahu intended to warn the U.S. against signing accord with Teheran that would permit Iran to acquire a nuclear weapon, or improve its atomic weapons infrastructure, as North Korea did in 2005. Mr. Peres, approaching the end of his eventful life and waxing philosophically about the profound changes he has witnessed, said that war’s soaring costs and decreasing payoff made it less attractive to state leaders, and hence less likely. “There will not be another war,” he said, “because what can you win? Why spend hundreds of millions of dollars and cause thousands of deaths? For what?” Land, or “real estate,” as he called it, was becoming less important than science and “wisdom” in the competition among nations. The cost of such confrontations was escalating exponentially, with a single fighter jet, for instance, costing hundreds of millions of dollars, placing unsustainable burdens on national budgets. “I don’t foresee a war,” he said more than once. “It’s too expensive.” Nor did he see the use of a nuclear or other WMD between states, he added. After the bombing of Hiroshima, he said, a consensus had developed that nuclear, chemical, and biological weapons were too powerful to use. This explained why “we were so shocked” when the Syrians used chemical weapons and violated a ban that has become what he called “an accepted norm.”

### A2 Grand Bargain Advantage (Iran Prolif)

#### Rouhani isn’t a moderate – he supports Iranian proliferation and is playing the US in negotiations

Charles Krauthammer Published: Sunday, Sept. 29 2013 Hassan Rouhani is hardly an Iranian moderate <http://www.deseretnews.com/article/765638746/Hassan-Rouhani-is-hardly-an-Iranian-moderate.html?pg=all>

The search, now 30 years old, for Iranian "moderates" goes on. Amid the enthusiasm of the latest sighting, it's worth remembering that the highlight of the Iran-contra arms-for-hostages debacle was the secret trip to Tehran taken by Robert McFarlane, President Ronald Reagan's former national security adviser. He brought a key-shaped cake symbolizing the new relations he was opening with the "moderates." We know how that ended. Three decades later, the mirage reappears in the form of Hassan Rouhani. Strange resume for a moderate: 35 years of unswervingly loyal service to the Islamic Republic as a close aide to Ayatollahs Khomeini and Khamenei. Moreover, Rouhani was one of only six presidential candidates, another 678 having been disqualified by the regime as ideologically unsound. That puts him in the 99th centile for fealty. Rouhani is Khamenei's agent but, with a smile and style, he's now hailed as the face of Iranian moderation. Why? Because Rouhani wants better relations with the West. Well, what leader would not want relief from Western sanctions that have sunk Iran's economy, devalued its currency and caused widespread hardship? The test of moderation is not what you want but what you're willing to give. After all, sanctions were not slapped on Iran for amusement. It was to enforce multiple Security Council resolutions demanding a halt to uranium enrichment. Yet in his lovey-dovey Washington Post op-ed, his U.N. speech and various interviews, Rouhani gives not an inch on uranium enrichment. Indeed, he has repeatedly denied that Iran is pursuing nuclear weapons at all. Or ever has. Such a transparent falsehood — what country swimming in oil would sacrifice its economy just to produce nuclear electricity that advanced countries like Germany are already abandoning? — is hardly the basis for a successful negotiation. But successful negotiation is not what the mullahs are seeking. They want sanctions relief. And more than anything, they want to buy time.

#### Moderation won’t happen – Rouhani just wants to buy time to allow proliferation to be possible

Charles Krauthammer Published: Sunday, Sept. 29 2013 Hassan Rouhani is hardly an Iranian moderate <http://www.deseretnews.com/article/765638746/Hassan-Rouhani-is-hardly-an-Iranian-moderate.html?pg=all>

It takes about 250 kilograms of 20 percent enriched uranium to make a nuclear bomb. The International Atomic Energy Agency reported in August that Iran already has 186 kilograms. That leaves the Iranians on the threshold of going nuclear. They are adding 3,000 new high-speed centrifuges. They need just a bit more talking, stalling, smiling and stringing along a gullible West. Rouhani is the man to do exactly that. As Iran's chief nuclear negotiator between 2003 and 2005, he boasted in a 2004 speech to the Supreme Cultural Revolution Council, "While we were talking with the Europeans in Tehran, we were installing equipment in parts of the (uranium conversion) facility in Isfahan. ... In fact, by creating a calm environment, we were able to complete the work in Isfahan." Such is their contempt for us that they don't even hide their strategy: Spin the centrifuges while spinning the West.

#### Grand bargains with Iran won’t work – in the end they will pocket any concessions and proliferate anyway.

Michael Ledeen The Atlantic September 25, 2013 Why Did Rouhani Say ‘No’ to Obama? <http://www.defenseone.com/threats/2013/09/why-did-rouhani-say-no-obama/70814/?oref=d-channelriver>

So far, the plot of “hopes and expectations raised, then a slap in the face” follows the usual script. Just ask Bill Clinton or George W. Bush, both of whom believed they had reached agreement with the Iranian regime, a “grand bargain” that would put the two countries on the path to better relations, lift some American sanctions, and, in Bush's case, end Iranian uranium enrichment. At the last minute, Iran said “forget it.” Secretary of State Condoleeza Rice and her top deputy, Nicholas Burns, had flown to New York in the fall of 2006 to welcome the Iranian diplomat Ali Larijani to the United Nations, where the Grand Bargain was to have been signed. But he never left Tehran. Clinton got a public rebuke from Supreme Leader Ali Khamenei, currently Rouhani's boss. There is nothing particularly new or surprising in Iran's behavior this week.

#### Bargains not possible with Rouhani, not moderate, will continue proliferation while distracting us.

Erick Stakelbeck 9-23 <http://www.foxnews.com/opinion/2013/09/23/will-obama-fall-for-rowhani-deception/>

In other words, taqiyya means that Rowhani can say say one thing while his masters back in Tehran do the exact opposite. This was precisely the plan when Ayatollah Khamenei—the ultimate authority and decision maker in Iran—chose the media-savvy, Western-educated Rowhani to succeed the incendiary Mahmoud Ahmadenijad as the regime’s face to the world. Khamenei wagered that the new president would charm the socks off Western elites—who have zero appetite for confrontation and are desperate for a way out of the Iranian nuclear crisis—and he was exactly right. While Rowhani talks Western leaders to death, the Iranians can continue developing weapons of mass death. Of course, the whole notion of Hassan Rowhani as a moderate flies in the face of his radical track record. This is the same Hassan Rowhani who was a close associate and disciple of Ayatollah Ruhollah Khomeini, the godfather of Iran’s brutal Islamic revolution and the man who practically patented the phrases “Death to America” and “Death to Israel.” Rowhani has held various top positions in Iran’s totalitarian regime over the past four decades—including a two-year stint as Iran’s top nuclear negotiator. In 1999, he oversaw a bloody government crackdown on Iran’s pro-democracy student movement. Just last month, he called Israel a “wound” on the Muslim word that “needs to be removed” (Iran’s state-controlled media later tried to walk the statement back: too honest) and in a recent interview with NBC’s Ann Curry, refused to say whether or not he believed the Holocaust really happened.

#### No Iran prolif – security estimates overblown\*

Hymans, 13 (Professor IR USC, 2/18, Jacques, “Iran Is Still Botching the Bomb” Foreign Affairs, http://www.foreignaffairs.com/articles/139013/jacques-e-c-hymans/iran-is-still-botching-the-bomb)

At the end of January, Israeli intelligence officials quietly indicated that they have downgraded their assessments of Iran's ability to build a nuclear bomb. This is surprising because less than six months ago, Israeli Prime Minister Benjamin Netanyahu warned from the tribune of the United Nations that the Iranian nuclear D-Day might come as early as 2013. Now, Israel believes that Iran will not have its first nuclear device before 2015 or 2016. The news comes as a great relief. But it also raises questions. This was a serious intelligence failure, one that has led some of Israel's own officials to wonder aloud, "Did we cry wolf too early?" Indeed, Israel has consistently overestimated Iran's nuclear program for decades. In 1992, then Foreign Minister Shimon Peres announced that Iran was on pace to have the bomb by 1999. Israel's many subsequent estimates have become increasingly frenzied but have been consistently wrong. U.S. intelligence agencies have been only slightly less alarmist, and they, too, have had to extend their timelines repeatedly. Overestimating Iran's nuclear potential might not seem like a big problem. However, similar, unfounded fears were the basis for President George W. Bush's preemptive attack against Iraq and its nonexistent weapons of mass destruction. Israel and the United States need to make sure that this kind of human and foreign policy disaster does not happen again. What explains Israel's most recent intelligence failure? Israeli officials have suggested that Iran decided to downshift its nuclear program in response to international sanctions and Israel's hawkish posture. But that theory falls apart when judged against Tehran's own recent aggressiveness. In the past few months, Iran has blocked the International Atomic Energy Agency (IAEA) from gaining access to suspect facilities, stalled on diplomatic meetings, and announced a "successful" space shot and the intention to build higher-quality centrifuges. These are not the actions of a state that is purposely slowing down its nuclear program. Even more to the point, if Tehran were really intent on curbing its nuclear work, an explicit announcement of the new policy could be highly beneficial for the country: many states would praise it, sanctions might be lifted, and an Israeli or U.S. military attack would become much less likely. But Iran has not advertised the downshift, and its only modest concession of late has been to convert some of its 20 percent enriched uranium to reactor fuel. It is doubtful that the Iranians would decide to slow down their nuclear program without asking for anything in return. A second hypothesis is that Israeli intelligence estimates have been manipulated for political purposes. This possibility is hard to verify, but it cannot be dismissed out of hand. Preventing the emergence of a nuclear-armed Iran is Netanyahu's signature foreign policy stance, and he had an acute interest in keeping the anti-Iran pot boiling in the run-up to last month's parliamentary elections, which he nearly lost. Now, with the elections over, perhaps Israeli intelligence officials feel freer to convey a more honest assessment of Iran's status. This theory of pre-election spin is not very satisfying, however, because it fails to explain why Israeli governments of all political orientations have been making exaggerated claims about Iran for 20 years -- to say nothing of the United States' own overly dire predictions. The most plausible reason for the consistent pattern of overstatement is that Israeli and U.S. models of Iranian proliferation are flawed. Sure enough, Israeli officials have acknowledged that they did not anticipate the high number of technical problems Iranian scientists have run into recently. Some of those mishaps may have been the product of Israeli or U.S. efforts at sabotage. For instance, the 2010 Stuxnet computer virus attack on Iran's nuclear facilities reportedly went well. But the long-term impact of such operations is usually small -- or nonexistent: the IAEA and other reputable sources have dismissed the highly publicized claims of a major recent explosion at Iran's Fordow uranium-enrichment plant, for instance. Rather than being hampered by James Bond exploits, Iran's nuclear program has probably suffered much more from Keystone Kops-like blunders: mistaken technical choices and poor implementation by the Iranian nuclear establishment. There is ample reason to believe that such slipups have been the main cause of Iran's extremely slow pace of nuclear progress all along. The country is rife with other botched projects, especially in the chaotic public sector. It is unlikely that the Iranian nuclear program is immune to these problems. This is not a knock against the quality of Iranian scientists and engineers, but rather against the organizational structures in which they are trapped. In such an environment, where top-down mismanagement and political agendas are abundant, even easy technical steps often lead to dead ends and pitfalls. Iran is not the only state with a dysfunctional nuclear weapons program. As I argued in a 2012 Foreign Affairs article, since the 1970s, most states seeking entry into the nuclear weapons club have run their weapons programs poorly, leading to a marked slowdown in global proliferation. The cause of this mismanagement is the poor quality of the would-be proliferator's state institutions. Libya and North Korea are two classic examples. Libya essentially made no progress, even after 30 years of trying. North Korea has gotten somewhere -- but only after 50 years, and with many high-profile embarrassments along the way. Iran, whose nuclear weapons drive began in the mid-1980s, seems to be following a similar trajectory. Considering Iran in the broader context of the proliferation slowdown, it becomes clear that the technical problems it has encountered are more than unpredictable accidents -- they are structurally determined. Since U.S. and Israeli intelligence services have failed to appreciate the weakness of Iran's nuclear weapons program, they have not adjusted their analytical models accordingly. Thus, there is reason to be skeptical about Israel's updated estimate of an Iranian bomb in the next two or three years. The new date is probably just the product of another ad hoc readjustment, but what is needed is a fundamental rethinking. As the little shepherd boy learned, crying wolf too early and too often destroys one's credibility and leaves one vulnerable and alone. In order to rebuild public trust in their analysis, Jerusalem and Washington need to explain the assumptions on which their scary estimates are based, provide alternative estimates that are also consistent with the data they have gathered, and give a clear indication of the chance that their estimates are wrong and will have to be revised again. The Iranian nuclear effort is highly provocative. The potential for war is real. That is why Israel and the United States need to avoid peddling unrealistic, worse-than-worst-case scenarios.

**No impact—credible U.S. and Israel deterrence, leadership is rational, won’t give weapons to terrorists, no proliferation**

Carpenter, 12 (Ted Galen – senior fellow at the Cato Institute, April 12, “The Pernicious Myth That Iran Can’t Be Deterred”, CATO Institute, http://www.cato.org/publications/commentary/pernicious-myth-iran-cant-be-deterred)

Rumblings about possible war with Iran have grown louder in Washington and other Western capitals in the past few months. Speculation has centered on the likelihood that Israel will launch preemptive air strikes against Iran’s nuclear installations, but there is also considerable talk that the United States might join in such strikes or even take on the primary mission to make certain that the key sites are destroyed. Most advocates of military action against Iran contend that the system of international economic sanctions against the clerical regime is not halting progress on the country’s nuclear program and that the world simply cannot tolerate a nuclear-armed Iran. President Obama has stated repeatedly that it would be “unacceptable” for Tehran to have nuclear weapons, and Mitt Romney, the President’s likely opponent in the November election, says flatly that he will never allow the emergence of a nuclear Iran on his watch. The reason that a growing number of politicians and pundits embrace the war option, even though most of them concede that such a step could create dangerous instability in an already turbulent region, is that they explicitly or implicitly believe that Iran is undeterrable. The typical allegation is that if Iran builds nuclear weapons, it will use them — certainly against Israel, and possibly against the United States or its NATO allies. Most realists dispute that notion, pointing out that the United States has several thousand nuclear weapons and successfully deterred such difficult actors as the Soviet Union and Maoist China. They also note that Israel has between 150 and 300 nuclear weapons — an extremely credible deterrent. None of that matters, hawks contend, because the Iranian leadership is not rational and, therefore, the normal logic of deterrence does not apply. Several war advocates stress Iranian President Mahmoud Ahmadinejad’s obsession with the return of the “12th Imam,” an event in Islamic lore that is to be accompanied by an apocalypse. Clifford May, the head of the neo-conservative Foundation for the Defense of Democracies, argues that “more than a few of Iran’s rulers hold the theological conviction that the return of the Mahdi, the savior, can be brought about only by an apocalypse.” He goes on to cite ultra-hawkish Middle East scholar Bernard Lewis, who asserts that for those who share Ahmadinejad’s vision, “mutually assured destruction is not a deterrent. It’s an inducement.” There are several problems with that thesis. First, Ahmadinejad is hardly the most powerful figure in the Iranian political system. That’s why the all-too-frequent comparisons of Ahmadinejad to Adolf Hitler are especially absurd. The real power in Iran is held by the Ayatollah Ali Khamenei and his inner circle of senior clerics. And members of that leadership elite have publicly rebuked Ahmadinejad for devoting too much time and energy to the issue of the 12th Imam. Second, the return of the Mahdi in the midst of an apocalypse is scarcely a unique religious myth. Most major religions have an “end of the world” mystic scenario involving a savior. Christianity, for example, has the Book of Revelations, with the appearance of the four horsemen of the Apocalypse, Armageddon, and the second coming of Jesus Christ. Given the influence of Christianity among American political leaders, foreign critics could make the case that the United States cannot be trusted with nuclear weapons, because a devout Christian leader who believed Revelations would be tempted to bring about Armageddon. The reality is that leaders in any political system usually prefer to enjoy the riches and other perks of this life rather than seek to bring about prematurely the speculative benefits of a next life. There is no credible evidence that the Iranian leadership deviates from that norm. And those leaders certainly know that a nuclear attack on Israel, the United States, or Washington’s NATO allies would trigger a devastating counter-attack that would end their rule and obliterate Iran as a functioning society. It is appropriate to demand that hawks produce evidence — not just allegations — that deterrence is inapplicable because Iranian leaders are suicidal. But one will search in vain for such evidence in the thirty-three years that the clerical regime has held power. There is, in fact, an abundance of counter-evidence. Meir Dagan, the former head of Israel’s Mossad intelligence agency, has stated that he considers Iran’s leaders — including Ahmadinejad — “very rational”. Tehran’s behavior over the years confirms that assessment. During the early stages of the Iraq-Iran war in the 1980s, the Ayatollah Khomeini said that he would “never make peace” with Saddam Hussein. But when the war dragged on for years and the correlation of forces turned against Iran, the country’s military leaders persuaded Khomeini and the clerical elite to conclude a compromise peace. That’s hardly the behavior of an irrational, suicidal political system. Indeed, there is strong evidence that Iranian leaders understand that there are red lines that they dare not cross. One of the specters that Western hawks create is that Iran would transfer nuclear weapons to non-state terrorist groups. But Iran has had chemical weapons in its arsenal since the days of the Shah. There is not a shred of evidence that Tehran has passed on such weapons to any of its political clients, including Hezbollah and Hamas. Given the visceral hatred those organizations harbor toward Israel, it is nearly certain that they would have used chemical weapons against Israeli targets if Iran had ever put them in their hands. Again, it certainly appears that deterrence neutralized any temptation Tehran might have had to engage in reckless conduct. A more rational fear than the notion that Iran would commit suicide by launching a nuclear attack against adversaries who have vast nuclear arsenals, or even that Iran would court a similar fate by supplying terrorist groups with nukes, is the thesis that Tehran would exploit a nuclear shield to then bully its neighbors. But even that fear is greatly exaggerated. As Cato Institute scholar Justin Logan points out in the April issue of The American Conservative, Iran’s conventional forces are weak and the country’s power projection capabilities are meager. A nuclear Iran likely would be capable of deterring a US attack on its homeland — attacks that the United States has a habit of launching against non-nuclear adversaries like Serbia, Iraq and Libya — but such a capability would not translate into Iranian domination of the Middle East. That nightmare scenario is only a little less overwrought than the other theories about the “Iranian threat.”

#### They won’t prolif—long timeframe, no evidence they’re making moves, we would detect it, forceful international response, no covert uranium enrichment plants, no decision from leaders to develop weapons

Kahl, 12 (Colin H. Kahl – Associate Professor in the Security Studies Program at Georgetown University's Edmund A. Walsh School of Foreign Service and Senior Fellow at the Center for a New American Security, March/April, “Not Time to Attack Iran: Why War Should Be a Last Resort”, Foreign Affairs, ProQuest)

Kroenig argues that there is an urgent need to attack Iran's nuclear infrastructure soon, since Tehran could "produce its first nuclear weapon within six months of deciding to do so." Yet that last phrase is crucial. The International Atomic Energy Agency (IAEA) has documented Iranian efforts to achieve the capacity to develop nuclear weapons at some point, but there is no hard evidence that Supreme Leader Ayatollah Ali Khamenei has yet made the final decision to develop them. In arguing for a six-month horizon, Kroenig also misleadingly conflates hypothetical timelines to produce weapons-grade uranium with the time actually required to construct a bomb. According to 2010 Senate testimony by James Cartwright, then vice chairman of the U.S. Joint Chiefs of Staff, and recent statements by the former heads of Israel's national intelligence and defense intelligence agencies, even if Iran could produce enough weapons-grade uranium for a bomb in six months, it would take it at least a year to produce a testable nuclear device and considerably longer to make a deliverable weapon And David Albright, president of the Institute for Science and International Security (and the source of Kroenig's six-month estimate), recently told Agence France-Presse that there is a "low probability" that the Iranians would actually develop a bomb over the next year even if they had the capability to do so. Because there is no evidence that Iran has built additional covert enrichment plants since the Natanz and Qom sites were outed in 2002 and 2009, respectively, any near-term move by Tehran to produce weapons-grade uranium would have to rely on its declared facilities. The IAEA would thus detect such activity with sufficient time for the international community to mount a forceful response. As a result, the Iranians are unlikely to commit to building nuclear weapons until they can do so much more quickly or out of sight, which could be years off. Kroenig is also inconsistent about the timetable for an attack. In some places, he suggests that strikes should begin now, whereas in others, he argues that the United States should attack only if Iran takes certain actions -- such as expelling IAEA inspectors, beginning the enrichment of weapons-grade uranium, or installing large numbers of advanced centrifuges, any one of which would signal that it had decided to build a bomb. Kroenig is likely right that these developments -- and perhaps others, such as the discovery of new covert enrichment site]s -- would create a decision point for the use of force. But the Iranians have not taken these steps yet, and as Kroenig acknowledges, "Washington has a very good chance" of detecting them if they do.

#### Prefer our ev—their authors continuously inflate threats

Innocent, 11 (Foreign policy analyst – Cato, member – IISS, 12/7/’11, Malou, http://www.cato-at-liberty.org/ignore-the-hawks-on-iran-too/)

More credible voices suggest otherwise. The nonprofit Arms Control Association (ACA) observed that the most-recent IAEA report suggests “[I]t remains apparent that a nuclear-armed Iran is still not imminent nor is it inevitable.” Iran was engaged in nuclear weapons development activities until it stopped in 2003, and as Cato’s Justin Logan observes, the IAEA’s own report shows there is no definitive evidence of Iran’s diversion of fissile material. When Pletka was called out for her “less than a year” prediction, she turned up her nose and snapped: Quibblers will suggest that there are important “ifs” in both these assessments. And yes, the key “if” is “if” Iran decides to build a bomb. So, I suppose when I said “less than a year away from having a nuclear weapon,” I should have added, “if they want one.” But… isn’t that the point? Do we want to leave this decision up to Khamenei? Confronted with ambiguous information, and forced to infer intentions, hawks evince the very same arrogance and overconfidence that helped open the door for Iranian influence in the region in the first place by toppling Saddam Hussein’s regime (Pletka advocated repeatedly for this leading up to the 2003 invasion). Pletka and others who years ago had the gall to argue that Iraq “will end when it ends” are today worthy of being ignored on Iran.

# 2NC

#### The permutation fails—the affirmative’s 1AC poisons the possibility of an alternative imaginary

Burke 2007 (Senior lecturer in Intl Politics @ University of Wales, p. 13-14 Anthony, “What Security Makes Possible: Some Thoughts on Critical Security Studies)

Waever's claim here sets up a strange tension with his argument that security is a 'speech act' that 'does not refer to something more real; the utterance is the act. '41 In turn he argues, after Jeff Huysmans, that successful securitisation only occurs when an audience accepts it as such.42 In this formulation, security's meaning is contingent, contested and subject to the play of power: 'something is a security problem when elites declare it to be SO'.43 And, in a somewhat Foucauldian vein, he argues that 'the way to study securitisation is to study discourse and political constellations. The relevant question is: When does an argument with this pat1iclliar rhetorical and semiotic structure achieve a sufficient effect'744 This contradiction may explain Booth's characterisation of the Copenhagen School as 'a curious combination of liberal, post-structural and neorealist approaches' which 'pile(s] up ... a bundle of conceptual problems and political issues' .45 My own hunch is that Wrever and his colleagues baulk at the implications of their de-ontologising move: rather than pursuing its implications and h)'ing to direct that into the service of a normatively better (if still discursively situated) understanding of security, they offer a choice of whether to securitise some issues, but, once that occurs, anchor the process in a deeply essentialist and problematic Schmittian matrix where security is about existential threat, abnormal politics, elite decision, and legal and nonnative rule-breaking. The nation-state remains the ultimate referent and ontological ground for security, even if there is a caution about the dangers involved in securitising some issues.46

#### Alt is mutually exclusive – any advocacy that endorses security logic undermines the alt

Mark Neocleous 2008 (Professor of the Critique of Political Economy; Head of Department of Politics & History Brunel Univ Critique of Security, 185-6]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether - to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain 'this is an insecure world' and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debates and discussions that animate political life. The constant prioritising of a mythical security as a political end - as the political end constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible - that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it remoeves it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve 'security', despite the fact that we are never quite told - never could be told - what might count as having achieved it. Security politics is, in this sense, an anti-politics,"' dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more 'sectors' to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives. Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that's left behind? But I'm inclined to agree with Dalby: maybe there is no hole."' The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up reaffirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That's the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths. For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding 'more security' (while meekly hoping that this increased security doesn't damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that 'security' helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and 'insecurities' that come with being human; it requires accepting that 'securitizing' an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift."

#### LINK:

#### Politics is constituted around signs which attempt to provide coherence and the security of certainty to a naturally chaotic world---the 1AC’s attempt to check the president fails because of inherent limits to language and serves as an ideological smokescreen to conceal imperial advances in presidential power

George 98 Larry N. George, Professor of Political Science at California State University-Long Beach “Seguidvuestro Jefe: The Polemic Supplement and the Pharmacotic Presidency” Theory & Event, Volume 2, Issue 3, 1998

¶ Fantasy, Political Identity, and the Pharmacotic Presidency¶ The broad and generally positive public embracing of this single executive image is an effect of the play of metonymy, or more precisely synechdoche . In Ragsdale's words,¶ ...the single executive image rests on symbolism -- the president symbolizes the nation, its people, and its government. There is a symbolic equivalence between the president and the public, with the two blurring together as one in presidents' speeches and in media coverage of the office. 34¶ This synechdoche operates like the ordered structure that articulates what Jacques Lacan calls the object petit a to what he calls fantasy. 35 Much of the power that twentieth century presidents have accumulated derives from the gradual disclosure of this functional position as fantasy.¶ For Lacan, human experience (including the realm of **politics**) **is constituted around signs**, **which are linked together** **through** metaphoric, metonymic and other semiotic **relations of resemblance and meaning into** **interlocking chains of signification**. Experience is given **coherence**, order, and ontological depth by an always assumed but unrepresentable link between these signs and desire. Because the network of chains of signifiers and signifieds is never hermeneutically closed or fully coherent in itself, the final, ultimate meaning or significance of any signifier or any experience **can never be absolutely guaranteed**. Yet for modern subjects, meaningful experience (including the sense of groundedness that Western metaphysics has historically viewed as necessary to political life) rests on the presumption that some master signifier, some ideological anchor ultimately exists, holding the chain of signification and meaning in a coherent, meaningful whole.¶ **The desire for** foundation -- for **an anchor to hold in check the play of signification**, and to arrest the politically disorienting process of the endless and contradictory substitution of meanings -- **is** both **built into the structure of political meaning** itself, and at the same impossible to represent or experience directly. Because of this impossibility, there always remains in any ideological system a place for some aspect, part, or element which is necessary in order to make sense of that experience, but which must lie outside the chain of signification, and which must therefore remain unrepresented. One example of this necessary void, this necessary-but-unrepresentable element (the object petit a ) is conventional political identity. When modern (and in a different way postmodern) subjects think of themselves as political agents or actors, the catalogue of identities that they use, or which are used by others, to identify them politically (e.g. "Hispanic", "Republican", "American", "progressive", "soccer mom", etc.) can never fully account for or exhaust their own understanding of their own political identity, because the supplementarity of political identity always exceeds the capacity of its signifier to represent it. (It is impossible, for example, to list fully and without contradiction all the defining characteristics that constitute "Hispanic" or "soccer mom"). Another example, more directly relevant to the present study, is the role of the king in a monarchical political order: the State under absolutism can only exist as a coherent totality so long as the king's body embodies it.¶ For Lacan, fantasy is the effort to incarnate, represent, or give other coherent, sensible content to the object petit a . For Lacan, fantasy "provides the coordinates of our desire -- which constructs the frame enabling us to desire something.... [T]hrough fantasy we learn how to desire." 36 Zizek gives as an example of political fantasy the Hobbesian, corporatist image of an organic political society: "... a social Body in which the different classes are like extremities, members each contributing to the Whole according to its function -- we may say that 'society as a corporate Body' is the fundamental ideological fantasy." 37 In this case, the corporatist fantasy (and by analogy, all political identities) by means of substitution, displacement, condensation, and metonymy allows the political subject to come to terms with the traumatic possibility that no real political-legal order can guarantee her rights, property, or security other than the network of rhetorical signifying chains that bond subjects in postmodernizing societies together into a simulacrum of political life.¶ Most writers who use Lacan to analyze political phenomena tend to concentrate on the play of fantasy in its erotic expression - as in the function of the phallus and desire in gendered structures of power. But to understand the relation between the polemic supplement and the pharmacotic presidency, it is necessary to focus on the largely unexplored thanatotic dimension of fantasy, examples of which include the "Jew" in Nazi ideology, "Communism" in US Cold War political mythology, "the Establishment" in 1960s New Left discourse, the men in black helicopters in militia conspiracy theories, or the demonized constructs "Bill and Hillary Clinton" in the pages of the American Spectator . These fantasies give a name and an incarnation to the desire for a demonizable other, a sacrificial object onto which those **qualities which are feared and hated in one's own polity** **can be projected** and symbolically combated. 38 They fill out the ultimately unrepresentable object petit a with a fantasy object (whose features, characteristics, and intentions seem identifiable and comprehensible, but upon closer inspection never actually are), and thereby supplement that which would otherwise remain an **unsustainable void** at the heart of these political ideologies. 39¶ Over the course of the evolution of the **US nationalist imaginary,** the country's Lockean and Montesquieuean constitutional framework has allowed Americans **to conduct their political affairs** **as though the** increasingly evidently Hobbesian nature of twentieth century American political life **were not** more and more **evident** all the time. The role of the president in the transition from the nineteenth to the twentieth century constitutional and political orders **was to serve as a fantasy screening the emergence of the twentieth century Hobbesian presidency**, a presidency whose position in the political order **increasingly came to resemble the functions of the Hobbesian monarch**. 40 While recent writers on the presidency have stressed the increasing constraints and limitations on the exercise of presidential power, the focus of the present article is on the dangerous ways that the **polemic supplement continues to provide the pharmacotic presidency with tremendous** potential political **resources** that have to date been only partially exploited.¶ The **pharmacotic structure** of the polemic supplement **is illustrated well by** the **Constitutional quandaries surrounding the president's war powers.** Because the condition of war so radically alters the state of the political order, from the time of the country's founding the authority to call the nation to war and to symbolically **represent the nation's unity** during the prosecution of wars has remained among the most jealously contested powers of government. Because it breaches in the most potentially dangerous way the political boundary that secures constitutional order from the state of nature, the war prerogative and the polemic supplement that flows from it **can** **never be completely delimited**, **defined, confined, or inscribed within any written constitution**. It is, rather, **precisely that impossible element** in the constitutional framework which must **lie outside the constitutional order itself** but which is necessary to it -- the object petit a -- and much of the power of the postmodernizing presidency derives from the impersonation of it as fantasy. The country's wars since the Spanish-American War have thus been increasingly inscribed in the polemic supplement. The political authority and ontologically reconstitutive power of postmodern presidents may be defined by it, in ways we can only now begin to glimpse.

#### Reject the Aff’s security discourse – abandoning the attempt to eradicate insecurity is a prerequisite to meaningful political engagement.

Neocleous 8

turns political questions into debates about the most efficient way to achieve ‘security’

to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security

) is to blind ourselves to the possibility of building real alternatives

#### Strong presidents solve all their offense: (1) control of executive agencies; (2) great expertise; (3) work well as first movers

Terry M. Moe (Professor, Political Science at Stanford University) and William G. Howell (Graduate Student in Political Science at Stanford University) December 1999 “Unilateral Action and Presidential Power: A Theory,” Presidential Studies Quarterly

The president's base of independent authority, in fact, is enormously enhanced rather than compromised by the executive nature of the job: **First, because presidents are executives, the operation of government is in their hands. As an inherent part of their job, they manage, coordinate, staff, collect information, plan, reconcile conflicting values, and respond quickly and flexibly to emerging problems. These activities are what it means, in practice, to have the executive power, and they give presidents tremendous discretion in the exercise of governmental authority. The opportunities for presidential imperialism are too numerous to count. When presidents feel it is in their political interests, they can put whatever decisions they like to strategic use, both in gaining policy advantage and in pushing out the boundaries of their power**. **Second, because presidents are executives, they have at their disposal a tremendous reservoir of expertise, experience, and information, both in the institutional presidency and in the bureaucracy at large. These are critical resources the other branches can never match, and they give presidents a huge strategic advantage--in the language of agency theory, an information asymmetry of vast proportions--in pursuing the myriad opportunities for aggrandizement that present themselves in the course of governmental decision making**. **Third, and finally, there is a key advantage that is often overlooked. Because presidents are executives, and because of the discretion, opportunities, and resources available to them, they are ideally suited to be first movers and to reap the agenda powers that go along with it. If they want to shift the status quo by taking unilateral action on their own authority, whether or not that authority is clearly established in law, they can simply do it--quickly, forcefully, and (if they like) with no advance notice.** The other branches are then presented with a fait accompli, and it is up to them to respond. If they are unable to respond effectively, or decide not to, presidents win by default. And even if they do respond, which could take years, presidents may still get much of what they want anyway. The bottom line, then, is that the Constitution's incomplete contract sets up a governing structure that virtually invites presidential imperialism. Presidents, especially in modern times, are motivated to seek power. And because the Constitution does not say precisely what the proper boundaries of their power are, and because their hold on the executive functions of government gives them pivotal advantages in the political struggle, they have strong incentives to push for expanded authority by moving into grey areas of the law, asserting their rights, and exercising them--whether or not other actors, particularly in Congress, happen to agree.

#### Weak presidents are more dangerous than strong – they risk diversionary warfare, overreaction, and an ineffective incoherent foreign policy

Koh 95 [Harold Hongju, Professor of International Law and Director, Orville H. Schell, Jr. Center for International Human Rights, Yale Law School [50 U. Miami L. Rev. 1]

Both precedents have obvious parallels today, not to mention a third possibility: that **temptation might draw the executive branch into a "splendid little war" - like Grenada or Panama - with an eye toward a possible presidential bounce in the polls. That possibility raises Maxim Two: that weak presidents are more dangerous than strong ones. Jimmy Carter, for example, in the last two years of his presidency, engaged in perhaps the most dramatic nonwartime exercise of emergency foreign power ever seen, not because he was strong but because he was so politically weak.** 43 **In foreign policy, weak presidents all too often have something to prove.** 44 **In a gridlock situation, the president's difficulty exhibiting strength in domestic affairs - where Congress exercises greater oversight and must initiate funding proposals - makes it far easier for him to show leadership in foreign affairs. At the same time, weak presidents may underreact to looming crises that demand strong action, for fear that they cannot muster the legislative support necessary to generate the appropriate response. But when these weak presidents do finally respond, they tend to overreact: either to compensate for their earlier underreaction, or because by that time, the untended problem has escalated into a full-blown crisis, Bosnia and Haiti being the two prime Clinton Administration examples.** 45 **When private parties bring suits to challenge these presidential policies, courts tend to defer to weak presidents, because they view them not as willful, so much as stuck in a jam,** ¶ **[\*12] lacking other political options. Finally, weak presidents are more prone to give away the store, namely, to undercut their own foreign policy program in order to preserve their domestic agenda. This raises the question of whether this Democratic president may be forced to sign restrictive congressional legislation** - or whether Congress might pass such legislation over presidential veto, as Congress did with the War Powers Resolution in 1974 - **which may later come back to haunt future presidents. Nor, in this media age, is any president's strength truly secure. These days every president, whatever his current popularity rating, is potentially weak. We sometimes forget that just after the Gulf War, George Bush's popularity rating stood at 91%, only ten months before he lost reelection, and five years before he recanted about his actions during the war itself.**

#### Absent war powers, congress would create a policy paralysis in the face of conflict allowing foreign instability John Yoo Posted Feb 1, 2012 6:30 AM CDT War Powers Belong to the President <http://www.abajournal.com/magazine/article/war_powers_belong_to_the_president>

The framers realized the obvious. Foreign affairs are unpredictable and involve the highest of stakes, making them unsuitable to regulation by pre-existing legislation. Instead, they can demand swift, decisive action—sometimes under pressured or even emergency circumstances—that is best carried out by a branch of government that does not suffer from multiple vetoes or is delayed by disagreements. Congress is too large and unwieldy to take the swift and decisive action required in wartime. Our framers replaced the Articles of Confederation, which had failed in the management of foreign relations because they had no single executive, with the Constitution’s single president for precisely this reason. Even when it has access to the same intelligence as the executive branch, Congress’ loose, decentralized structure would paralyze American policy while foreign threats grow.

# 1NR

#### The perm severs because the plan restricts authority and the CP retains it – overruling the current legal basis for that authority makes any legit perm worse than the CP alone

Trevor Morrison 2011 – Columbia U Law Prof

<http://web.law.columbia.edu/sites/default/files/microsites/constitutional-governance/files/Libya-Hostilities-Office-of-Legal-Counsel.pdf> Harvard Law Review, ““Hostilities,” the Office of Legal Counsel, and the Process of Executive Branch Legal Interpretation”, 124 HARV. L. REV.F. 62,

Once OLC arrived at its conclusion, it should have been clearly conveyed to the relevant parties, ideally in writing. Reducing an opinion to writing is not always possible when time is short, but where it is feasible it helps clarify the precise terms and bounds of OLC’s position. The recipients of OLC’s opinion (whether written or oral) should have regarded it as the presumptively final word on the “hostilities” question. The President certainly retains the authority to overrule OLC, but the traditions of executive branch legal interpretation do not contemplate routine relitigation before the President. Still, on matters of grave consequence where affected agencies strongly disagree with OLC’s analysis, there is nothing categorically inappropriate in their seeking presidential review. Importantly, any such presidential review should proceed on the understanding that OLC’s analysis should be adhered to in all but the most extreme circumstances. Presidential overruling should be rare because it can carry serious costs. To start, it can undermine OLC’s ability to produce legal opinions consistent with its best view of the law. Agency general counsels and the White House Counsel’s Office may approach legal questions not with the goal of seeking the best view of the law, but with the aim of finding the best, professionally responsible legal defense of their client’s preferred policy position. There is nothing wrong with that. But if the President routinely favors legal views of that sort over OLC’s conclusions, the traditional rationale for having an OLC at all will be undermined. OLC’s work product is significant today in large part because of the time-honored understanding that its conclusions are presumptively binding within the executive branch. Routine presidential overruling would weaken the presumption, which in turn would diminish the significance of OLC’s work and reduce its clients’ incentive to seek its views. To remain relevant, OLC would likely start intentionally tilting its analysis in favor of its clients’ (here, the President’s) preferred policies. Put another way, the strong presumption in favor of the authoritativeness of OLC’s analysis provides OLC with the institutional space and cover to provide answers based on its best view of the law. If the former is weakened, the latter is jeopardized.

#### The pledge plank proves we are an opportunity cost – authority is retained but used for different purposes

Harvard Law Review 2012 (Unsigned)

Presidential Power and the Office of Legal Counsel, 125 Harv. L. Rev. 2090

Of course, there is an important difference between the use of signing statements and the decision to accept or reject OLC's legal advice: the President himself is in full control of whether he will issue a signing statement. When President Obama pledged to "issue signing statements to address constitutional concerns only when it is appropriate to do so as a means of discharging [his] constitutional responsibilities," 144 he knew that he would be the one to decide when it was "appropriate." In the case of OLC, though, the President would pledge simply to follow its legal advice and would be unable to predict with any certainty how often OLC will decide that his preferred course of action is unlawful. While the President would still exert a certain degree of control over OLC by appointing the Assistant Attorney General who leads it, the fact remains that he would be essentially relying on an outsider to determine when and how he can exercise his authority. [\*2113] The President would retain the ability to fire the head of OLC, but that would likely entail even worse consequences in light of his pledge to adhere to OLC opinions. As a result, the President is less likely to make such a pledge in the first place, reducing the opportunity for public opinion to check his authority. Indeed, while public outcry seems to have resulted in the use of executive self-binding in the signing statement context, 145 the fact that President Obama decided to continue military operations in Libya despite OLC's opposition, and without requesting a formal OLC opinion, indicates that the public is not yet playing this role with respect to OLC. Nevertheless, the successful curbing of the use of signing statements suggests that it is at least possible.

### A2 PDB

Links pres powers disads

#### CP alone supercharges OLC legitimacy – the perm’s outside influence undermines the signal

Harvard Law Review 2012 (Unsigned)

Presidential Power and the Office of Legal Counsel, 125 Harv. L. Rev. 2090

OLC's endorsement of a White House policy also increases the perceived legitimacy of that policy by coordinate branches. OLC opinions derive much of their value from the perception that OLC's legal advice is "independent of the policy and political pressures associated with a particular question." 50 The White House relies on OLC opinions to ensure that at least some of the President's views are respected by other government actors, like Congress or the courts. 51 It is therefore in the White House's long-term interest, as well as OLC's, that OLC manage to strike a balance between the short-term desire of the White House to "win" on any given legal issue and the long-term need to maintain OLC's reputation. If OLC were to become a rubber stamp for the White House, its reputation would be lost, eliminating both OLC's ability to do its job effectively and its capacity to provide executive branch actors a credible ally in interbranch disputes. 52 Finally, OLC's approval could increase the public's perception of a policy's legitimacy. Historically, the public has known little of OLC's existence or activities; 53 in the future, however, the White House could publicize OLC's role as an independent check on presidential authority. If OLC were able to establish a solid reputation among ordinary citizens for engaging in unbiased, accurate legal analysis, it would serve to further legitimize the President's claimed authority. The only way for OLC to acquire such a reputation is for it to be independent of the White House, resisting outside influence and ensuring that its legal opinions are based solely on the best view of the law.

#### The CP alone is the ONLY hope to solve the aff – executive circumvention is an internal net benefit – answers ALL solvency deficits

Harvard Law Review 2012 (Unsigned)

Presidential Power and the Office of Legal Counsel, 125 Harv. L. Rev. 2090

The President relies on OLC to issue written opinions that explain the bounds of his constitutional authority and help him to fulfill his duty to faithfully execute the laws. The threat to national security posed by the war on terror in the past decade has led to increased pressure on OLC to give the President the tools that he needs in order to protect the country. Each of the examples discussed in this Part reveals the need for OLC not only to adhere to its own internal guidelines but also to strengthen them in order to protect its independence and legitimacy. This approach would ensure that the White House receives the best possible legal advice on controversial subjects and would give the President the option to use its opinions as a form of executive self-binding. Given the apparent atrophy of external constraints from the other branches, an internal constraint of this kind may offer the best chance of meaningfully containing executive power. Such a constraint, however, requires the influence of public opinion, as in the case of signing statements, and only time will tell whether public opinion will have a similar impact in the context of OLC.

#### The perm changes the legal reasoning of the CP – only the CP alone operates from executive SELF restraint, flipping the default bias of the SG/OLC – executive constitutionalism is an internal net benefit

Cornelia Pillard Feb 2005 Supreme Court Inst, G-town U Law, former DOJ Deputy Asst Att Gen

<http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1190&context=facpub>

Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758

V. ENABLING EXECUTIVE CONSTITUTIONALISM The courts indisputably do not and cannot fully assure our enjoyment of our constitutional rights, and it is equally clear that the federal executive has an independent constitutional duty to fulfill the Constitution's promise. Executive constitutionalism seems ripe with promise. Yet, it is striking how limited and court-centered the executive's normative and institutional approaches to constitutional questions remain. One conceivable way to avoid the pitfalls of court-centric executive lawyering on one hand and constitutional decisions warped by political expedience on the other would be to make the Solicitor General and Office of Legal Counsel - or perhaps the entire Department of Justice - as structurally independent as an independent counsel or independent agency.207 Making the SG and OLC independent in order to insulate them from politics presumably would alleviate the "majoritarian difficulty" resulting from their service to elected clients. Promoting fuller independence in that sense does not, however, appear to be clearly normatively attractive, constitutionally permissible, nor particularly feasible. In all the criticism of our current constitutionalism, there is little call for an SG or OLC that would act, in effect, as a fully insulated and jurisprudentially autonomous constitutional court within the executive branch, operating with even less transparency and accountability than the Supreme Court. Moreover, as a practical matter it would be complex and problematic to increase the independence of the SG and OLC. The federal government faces Article II obstacles to formally insulating executive lawyers from politics and institutional pressures, and the president and his administration likely would be less amenable to guidance from such unaccountable lawyers.208 The challenge, rather, is to draw forth from the executive a constitutional consciousness and practice that helps the government actively to seek to fulfill the commitments of the Constitution and its Bill of Rights, interpreted by the executive as guiding principles for government. Adjustments to executive branch constitutional process and culture should be favored if they encourage the executive to use its experience and capacities to fulfill its distinctive role in effectuating constitutional guarantees. There is transformative potential in measures that break ingrained executive branch habits of looking to the Constitution only as it is mediated through the courts, and of reflexively seeking, where there is no clear doctrinal answer, to minimize constitutional constraint. It is difficult fully to imagine what kinds of changes would best prompt executive lawyers and officials to pick up constitutional analysis where the courts leave off, and to rely on the Constitution as an affirmative, guiding mandate for government action; what follows are not worked-out proposals, but are meant to be merely suggestive. A. Correcting the Bias Against Constitutional Constraint As we have seen, the SG's and OLC's default interpretive approach to individual rights and other forms of constitutional constraints on government is to follow what clear judicial precedents there are and, where precedents are not squarely to the contrary, to favor interpretations that minimize constitutional rights or other constitutional obligations on federal actors. Those court-centered and narrowly self-serving executive traditions produce a systematic skew against individual rights. 1. Encourage Express Presidential Articulation of Commitment to Constitutional Rights To the extent that a president articulates his own rights-protective constitutional vision with any specificity, he ameliorates the tension his constitutional lawyers otherwise face between advancing individual rights and serving their boss's presumed interest in maximum governing flexibility. Case or controversy requirements and restrictions against courts issuing advisory opinions do not, of course, apply to the executive's internal constitutional decisionmaking, and presidents can better serve individual rights to the extent that they expressly stake out their constitutional commitments in general and in advance of any concrete controversy."° When the president takes a stand for advancing abortion rights, property rights, disability rights, "charitable choice," a right to bear arms, or full remediation of race and sex discrimination, he signals to his lawyers that they should, in those areas, set aside their default bias in favor of preserving executive prerogative, even if it requires extra executive effort or restraint to do so. If presented in a concrete setting with a choice between interpreting and applying the Constitution in fully rights-protective ways or sparing themselves the effort where Supreme Court precedent can be read not to require it, government officials typically default to the latter course without considering whether they might thereby be giving short shrift to a constitutional duty. A president's stated commitment to protection of particular rights, however, flips the default position with respect to those rights, acting as a spur to executive-branch lawyers and other personnel to work to give effect to constitutional rights even where, for a range of institutional reasons, the courts would not. A president is thus uniquely situated to facilitate full executive-branch constitutional compliance by precommitting himself to a rights-protective constitutional vision, and thereby making clear that respect for constitutional rights is part of the executive's interest, not counter to it.

#### Executive constitutionalism solves the aff, key to robust democracy

Pillard 2005 – JD from Harvard, Faculty Director of Supreme Court Institute at Georgetown University Law Center, former Deputy Assistant Attorney General in the DOJ (February, Cornelia T., Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758, http://scholarship.law.georgetown.edu/facpub/189/)

\*NOTE: SG = Solicitor General; OLC = Office of Legal Counsel

The executive, in my view, has failed fully to meet the challenges of interpreting and applying the Constitution on its own. My focus here is on questions of individual rights that evade judicial review. As the Office of Legal Counsel's "torture memos" illustrate, there are substantial risks associated with executive decisionmaking on fundamental questions of executive power and individual rights.' My basic analysis is also relevant to the executive's approach to federalism and separation of powers, but the principal focus here is on how the executive understands and fulfills its constitutional obligations with respect to individuals.2 This Article builds on two bodies of literature that, thus far, have not significantly engaged one another: writings about executive-branch legal processes, and about the Department of Justice's Solicitor General ("SG") and Office of Legal Counsel ("OLC") in particular (the institutional literature), and a recent round of theoretical scholarship about extrajudicial constitutionalism (the theoretical literature). The institutional literature typically projects confidence that the SG and OLC provide the highest quality legal advice and representation to the executive, and that they scrupulously protect the Constitution against executive officials distorting the law to advance personal, partisan, or institutionally parochial agendas. These writings routinely point to the special character and traditions of those offices in representing not only the president and the executive branch, but also the United States and its people. The descriptions seem at first blush to support the enthusiasm of the extrajudicial constitutionalists, inasmuch as they highlight offices within the executive branch dedicated to high-quality constitutional analysis. Meanwhile, the theoretical literature on extrajudicial constitutionalism suggests that the political branches have the capacity to effectuate the Constitution in ways quite distinct from the familiar, judicial version, and that, in part because of that distinctiveness, extrajudicial constitutionalism provides a normatively attractive supplement to or substitute for judicial doctrines. Scholars have pinned on the political branches hopes for a more democratic, less crabbed and formalistic constitutionalism, and one that reflects the political branches' distinctive capacities. Larry Sager, for example, sees the gap between the Constitution's normative commands and their judicial enforcement as enabling "robust participation by popular political institutions in the constitutional project of identifying and implementing the elements of political justice."3 Robin West identifies congressional constitutionalism as potentially enabling the "the democratization - long overdue - of the Constitution itself," and as promising a less legalistic approach Robert Post and Reva Siegel contend that "[q]uestions of constitutional law involve profound issues of national identity that cannot be resolved merely by judicial decree," and that, therefore, "a legitimate and vibrant system of constitutional law requires institutional structures that will ground it in the constitutional culture of the nation."5 Larry Kramer unearths an American historical tradition of popular constitutionalism that embraces "the democratic pedigree and superior evaluative capacities of the political branches" and that is resistant to the notion that the Constitution is mere ordinary law, formalistic and legalized to such an extent that only courts can be trusted with it.6 Bruce Peabody believes "a deeper consensus" could result from greater engagement by nonjudicial actors in constitutional interpretation Mark Tushnet champions a "populist constitutional law," wrested from the courts' unduly formalistic reliance on text, structure and history, and interpreted instead in light of "all-things-considered, more practical judgment."' As Christopher Eisgruber has explained, "[e]xperience and responsibility are invaluable teachers in the art of governance, and there may be times when Congress or the Executive, by virtue of their connection to the people or their knowledge of what government can do, have the best insight into how the Constitution balances competing principles."9 Certain features stand out as normatively attractive to proponents of political-branch constitutionalism. As applied to the executive, the theoretical literature highlights the importance of democratic responsiveness and distinctive institutional capacities (e.g., the executive's ability to investigate facts and take positive action) in shaping a constitutionalism that differs substantially from what the courts devise. Also central for those theorists, although often implicit, is a commitment to constitutional - as distinct from merely political - guidance for decisions left to political actors. The Constitution in the executive's hands could be a counterweight both to a monopoly over constitutional meaning in the hands of judicial elites that is stunted by the courts' limited practical capacities, and to a politics of raw competition among self-promoting interests divorced from the public-regarding underpinning our fundamental law provides. Viewed in this way, executive constitutionalism holds untapped potential as a more democratically engaged and institutionally versatile way of keeping the American polity true to its best self.

#### Extinction & linear access to all impacts

G John Ikenberry 1999 U Penn Political Science Prof

“Why Export Democracy” Wilson Quarterly, Spring

We led the struggle for democracy because the larger the pool of democracies, the greater our own security and prosperity. Democracies, we know, are less likely to make war on us or on other nations. They tend not to abuse the rights of their people. They make for more reliable trading partners. And each new democracy is a potential ally in the struggle against the challenges of our time-containing ethnic and religious conflict; reducing the nuclear threat; combating terrorism and organized crime; overcoming environmental degradation.

### A2 Future President

Murray 99

[Frank, “Clinton’s Executive Orders are Still Packing a Punch: Other Presidents Issued More, but His are Still Sweeping” Washington Times http://www.englishfirst.org/13166/13166wtgeneral.html]

Clearly, Mr. Clinton knew what some detractors do not: Presidential successors of the opposite party do not lightly wipe the slate clean of every order, or even most of them. Still on the books 54 years after his death are 80 executive orders issued by Franklin D. Roosevelt. No less than 187 of Mr. Truman's ordersremain, including one to end military racial segregation, which former Joint Chiefs of Staff Chairman Colin Powell praised for starting the "Second Reconstruction." "President Truman gave us the order to march with Executive Order 9981," Mr. Powell said at a July 26, 1998 ceremony marking its 50th anniversary. Mr. Truman's final order, issued one day before he left office in 1953, created a national security medal of honor for the nation's top spies, which is still highly coveted and often revealed only in the obituary of its recipient.

#### The public signal of the CP checks future presidents – prefer mechanic specific ev

Harvard Law Review 2012 (Unsigned)

Presidential Power and the Office of Legal Counsel, 125 Harv. L. Rev. 2090

These changes in the way OLC operates may have been motivated by the beginning of a public reaction against White House encroachment. Commentators continue to publicize OLC's role in interpreting the law, and OLC has remained in the public eye during discussions of drone strikes and the intervention in Libya. 136 If public awareness increases sufficiently, the public itself may be able to act as a check on the White House's influence and encourage future administrations to give OLC's independence greater respect. For example, the controversial use of signing statements by President Bush to challenge individual provisions of bills that he signed into law angered many members of Congress, but their efforts to combat this practice were largely unsuccessful. 137 Indeed, "multiple bills were introduced in an attempt to [\*2112] rein in the use of signing statements," 138 but when legislation was ultimately enacted, it was itself thwarted by the issuance of a signing statement. 139 Congress's attempt to exert its authority as a coequal branch of government failed; however, its efforts led to increased public awareness of the issue, and public opposition to President Bush's specific uses of signing statements persuaded President Obama to pledge to make much less frequent use of them. 140 This result accords with Posner and Vermeule's argument, discussed earlier, that "legal constraints [on the executive] have atrophied," necessitating the use of public opinion and the political process rather than of the constitutional authority of the other branches. 141 In a similar fashion, it is difficult to see how Congress could act to encourage the President to follow an unbiased view of the law; the Constitution entrusts the duty of executing the laws to the executive branch, and the President, as its head, has full authority to interpret the law as he sees fit. 142 Public opinion, however, could persuade the President that the benefits of respecting OLC's independence outweigh the potential costs and could in fact lead the President to pledge to follow OLC's legal opinions. 143

### A2 Object Fiat

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

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

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

#### The CP should be in the conversation based on public choice literature

Nathan Sales 7-3-12 – George Mason U Law Assistant Professor of, niversity

Journal of National Security Law & Policy, 6.227, “Self-Restraint and National Security”

With this framework in mind, we can begin to offer some preliminary hypotheses about why national security officials sometimes adopt selfrestraints. From a policymaker’s standpoint, the expected benefits of a national security operation often will be dwarfed by its expected costs (enemy propaganda, loss of national prestige, individual criminal liability, and so on). For rational policymakers, the welfare maximizing choice sometimes will be to avoid bold and aggressive operations. Reviewers likewise can find inaction to be welfare maximizing. For an influence- and autonomy-maximizing reviewer, vetoing an operation proposed by a bureaucratic competitor can redistribute power and turf away from one’s rival and to oneself. Operators, by contrast, are likely to have a very different cost-benefit calculus. An operator’s expected benefits typically will be larger than a policymaker’s or a reviewer’s, because he will account for the psychic income (such as feelings of exhilaration and satisfaction) that accrues to those who personally participate in a mission. As a result, rational operators may regard a given operation as welfare-enhancing even when policymakers and reviewers regard the same mission as welfarereducing. A few observations are needed about the public choice framework sketched out above – its possibilities and its limitations – before applying it. This article emphasizes restraints imposed by elements within the executive branch. But the framework also might be used to explain why Congress sometimes adopts restraints for the government as a whole – i.e., why Congress enacts legislation restricting the executive’s operational authority more severely than is required by domestic law (in this case the Constitution) or international law. First, there may be an asymmetry in the legislators’ expected value calculations. Members of Congress might conclude, for example, that the expected costs of conducting mildly coercive interrogations outweigh the expected benefits and thus enact legislation banning the military from using any technique not listed in the Army Field Manual, as it did in the Detainee Treatment Act of 2005.33 Second, members might engage in a form of empire building, allocating to themselves a greater portion of the war powers they share with the President. For example, Congress might assert its primacy over covert operations by passing a law prohibiting the President from approving assassinations, as the Church Committee proposed in the late 1970s.34 Still, the Executive probably is more likely to adopt restraints than Congress is, because the Executive’s expected costs of an operation gone wrong usually will be greater.35 Unlike legislators, executive branch officials face the prospect of personal legal liability for approving or participating in operations that are alleged to violate domestic or international law.36

### Congress Key

#### Solves better than the aff.

Dodds’112 E EXECUTIVE UNBOUND: AFTER THE MADISONIAN REPUBLIC, by Eric A. Posner and Adrian Vermeule. New York: Oxford University Press, 2011. 256pp. Cloth $29.95. ISBN 9780199765331. ¶ Reviewed by Graham G. Dodds, Department of Political Science, Concordia University, Montreal. g.dodds [ at ] concordia.ca

In Chapter Four, Posner and Vermeule foreshadow the book’s conclusion and argue that even if constitutional norms and laws cannot constrain the executive, politics can. They invoke principal-agent theory and suggest the president can effectively serve as the people’s agent. However, their main point seems to be that politics can prompt presidents to exercise self-restraint: “the system of elections, the party system, and American political culture constrain the executive far more than do legal rules created by Congress or the courts; and although politics hardly guarantees that the executive will always act in the public interest, politics at least limits the scope for executive abuses” (p.113). Thus, the presence of these de facto constraints should render the absence of de jure constraints less troubling

#### The CP garners the benefits of Congressional & Judicial involvement while avoiding the DA’s – keeping authority with the president is the key

James Baker, 2007 - Former Special Assistant to the President & Legal Advisor to NSC

Chief Judge, United States Court of Appeals for the Armed Forces IN THE COMMON DEFENSE: NATIONAL SECURITY LAW FOR PERILOUS TIMES, p. 25-27

Understanding process also entails an appreciation as to how to effectively engage the constitutional process between branches. Unilateral executive action has advantages in surprise, speed, and secrecy. In context, it is also functionally imperative. As discussed in Chapter 8, for example, military command could hardly function if it were subject to interagency, let alone, interbranch application. Unilateral decision and action have other advantages. Advantage comes in part from the absence of objection or dissent and in the avoidance of partisan political obstruction. In the view of some experts, during the past fifteen years, “party and ideology routinely trump institutional interests and responsibilities” in the Congress.6 These years coincide with the emergence of the jihadist threat. However, there are also security benefits that derive from the operation of external constitutional appraisal. These include the foreknowledge of objection and the improvements in policy or execution that dissent might influence. Chances are, if the executive cannot sell a policy to members of Congress, or persuade the courts that executive actions are lawful, the executive will not be able to convince the American public or the international community. A sustained and indefinite conflict will involve difficult public policy trade-offs that will require sustained public support; that means support from a majority of the population, not just a president’s political base or party. Such support is found in the effective operation of all the constitutional branches operating with transparency. Where members of Congress of both parties review and validate a policy, it is more likely to win public support. Likewise, where the government’s legal arguments and facts are validated through independent judicial review, they are more likely to garner sustained public support. Thus, where there is more than one legal and effective way to accomplish the mission, as a matter of legal policy, the president and his national security lawyers should espouse the inclusive argument that is more likely to persuade more people for a longer period of time. The extreme and divisive argument should be reserved for the extraordinary circumstance. In short, congressional and judicial review, not necessarily decision, offers a source of independent policy and legal validation that is not found in the executive branch alone. Further, while the president alone has the authority to wield the tools of national security and the bureaucratic efficiencies to do so effectively, that is not to say the president does not benefit from maximizing his authority through the involvement and validation of the other branches of government. Whatever can be said of the president’s independent authority to act, as the Jacksonian paradigm recognizes, when the president acts with the express or implied authorization of the Congress in addition to his own inherent authority, he acts at the zenith of his powers. Therefore, those who believe in the necessity of executive action to preempt and respond to the terrorist threat, as I do, should favor legal arguments that maximize presidential authority. In context, this means the meaningful and transparent participation of the Congress and the courts.

## A2 Isreal doesn’t trust the prez

#### Call for this card after the round—it’s complete shit—never does it say that Israel doesn’t trust Obama

# Iran prolif

#### No Iran prolif – security estimates overblown\*

Hymans, 13 (Professor IR USC, 2/18, Jacques, “Iran Is Still Botching the Bomb” Foreign Affairs, http://www.foreignaffairs.com/articles/139013/jacques-e-c-hymans/iran-is-still-botching-the-bomb)

At the end of January, Israeli intelligence officials quietly indicated that they have downgraded their assessments of Iran's ability to build a nuclear bomb. This is surprising because less than six months ago, Israeli Prime Minister Benjamin Netanyahu warned from the tribune of the United Nations that the Iranian nuclear D-Day might come as early as 2013. Now, Israel believes that Iran will not have its first nuclear device before 2015 or 2016. The news comes as a great relief. But it also raises questions. This was a serious intelligence failure, one that has led some of Israel's own officials to wonder aloud, "Did we cry wolf too early?" Indeed, Israel has consistently overestimated Iran's nuclear program for decades. In 1992, then Foreign Minister Shimon Peres announced that Iran was on pace to have the bomb by 1999. Israel's many subsequent estimates have become increasingly frenzied but have been consistently wrong. U.S. intelligence agencies have been only slightly less alarmist, and they, too, have had to extend their timelines repeatedly. Overestimating Iran's nuclear potential might not seem like a big problem. However, similar, unfounded fears were the basis for President George W. Bush's preemptive attack against Iraq and its nonexistent weapons of mass destruction. Israel and the United States need to make sure that this kind of human and foreign policy disaster does not happen again. What explains Israel's most recent intelligence failure? Israeli officials have suggested that Iran decided to downshift its nuclear program in response to international sanctions and Israel's hawkish posture. But that theory falls apart when judged against Tehran's own recent aggressiveness. In the past few months, Iran has blocked the International Atomic Energy Agency (IAEA) from gaining access to suspect facilities, stalled on diplomatic meetings, and announced a "successful" space shot and the intention to build higher-quality centrifuges. These are not the actions of a state that is purposely slowing down its nuclear program. Even more to the point, if Tehran were really intent on curbing its nuclear work, an explicit announcement of the new policy could be highly beneficial for the country: many states would praise it, sanctions might be lifted, and an Israeli or U.S. military attack would become much less likely. But Iran has not advertised the downshift, and its only modest concession of late has been to convert some of its 20 percent enriched uranium to reactor fuel. It is doubtful that the Iranians would decide to slow down their nuclear program without asking for anything in return. A second hypothesis is that Israeli intelligence estimates have been manipulated for political purposes. This possibility is hard to verify, but it cannot be dismissed out of hand. Preventing the emergence of a nuclear-armed Iran is Netanyahu's signature foreign policy stance, and he had an acute interest in keeping the anti-Iran pot boiling in the run-up to last month's parliamentary elections, which he nearly lost. Now, with the elections over, perhaps Israeli intelligence officials feel freer to convey a more honest assessment of Iran's status. This theory of pre-election spin is not very satisfying, however, because it fails to explain why Israeli governments of all political orientations have been making exaggerated claims about Iran for 20 years -- to say nothing of the United States' own overly dire predictions. The most plausible reason for the consistent pattern of overstatement is that Israeli and U.S. models of Iranian proliferation are flawed. Sure enough, Israeli officials have acknowledged that they did not anticipate the high number of technical problems Iranian scientists have run into recently. Some of those mishaps may have been the product of Israeli or U.S. efforts at sabotage. For instance, the 2010 Stuxnet computer virus attack on Iran's nuclear facilities reportedly went well. But the long-term impact of such operations is usually small -- or nonexistent: the IAEA and other reputable sources have dismissed the highly publicized claims of a major recent explosion at Iran's Fordow uranium-enrichment plant, for instance. Rather than being hampered by James Bond exploits, Iran's nuclear program has probably suffered much more from Keystone Kops-like blunders: mistaken technical choices and poor implementation by the Iranian nuclear establishment. There is ample reason to believe that such slipups have been the main cause of Iran's extremely slow pace of nuclear progress all along. The country is rife with other botched projects, especially in the chaotic public sector. It is unlikely that the Iranian nuclear program is immune to these problems. This is not a knock against the quality of Iranian scientists and engineers, but rather against the organizational structures in which they are trapped. In such an environment, where top-down mismanagement and political agendas are abundant, even easy technical steps often lead to dead ends and pitfalls. Iran is not the only state with a dysfunctional nuclear weapons program. As I argued in a 2012 Foreign Affairs article, since the 1970s, most states seeking entry into the nuclear weapons club have run their weapons programs poorly, leading to a marked slowdown in global proliferation. The cause of this mismanagement is the poor quality of the would-be proliferator's state institutions. Libya and North Korea are two classic examples. Libya essentially made no progress, even after 30 years of trying. North Korea has gotten somewhere -- but only after 50 years, and with many high-profile embarrassments along the way. Iran, whose nuclear weapons drive began in the mid-1980s, seems to be following a similar trajectory. Considering Iran in the broader context of the proliferation slowdown, it becomes clear that the technical problems it has encountered are more than unpredictable accidents -- they are structurally determined. Since U.S. and Israeli intelligence services have failed to appreciate the weakness of Iran's nuclear weapons program, they have not adjusted their analytical models accordingly. Thus, there is reason to be skeptical about Israel's updated estimate of an Iranian bomb in the next two or three years. The new date is probably just the product of another ad hoc readjustment, but what is needed is a fundamental rethinking. As the little shepherd boy learned, crying wolf too early and too often destroys one's credibility and leaves one vulnerable and alone. In order to rebuild public trust in their analysis, Jerusalem and Washington need to explain the assumptions on which their scary estimates are based, provide alternative estimates that are also consistent with the data they have gathered, and give a clear indication of the chance that their estimates are wrong and will have to be revised again. The Iranian nuclear effort is highly provocative. The potential for war is real. That is why Israel and the United States need to avoid peddling unrealistic, worse-than-worst-case scenarios.