## 1AC

### Plan Text

**Plan: The United States federal government should increase statutory restrictions on the War Powers Resolution by requiring congressional approval for preemptive use of military force.**

### Contention One: SOP

#### Status quo power projection is structurally bankrupt– disconnect from political will, lack of congressional approval, and Presidential variance

Gallagher, 2011 (Joseph, served as an F/A-18C Pilot, Air Officer, and F/A-18C/D Flight Instructor in the US Marine Corps operating forces, He worked Security Assistance initiatives for the US European Command and most recently as a Joint Planner in the USEUCOM J3 and J5, Gallagher is currently assigned to the Joint Staff, Pakistan-Afghanistan Coordination Cell; “Unconstitutional War: Strategic Risk in the Age of Congressional Abdication”, Parameters, summer, http://strategicstudiesinstitute.army.mil/pubs/parameters/articles/2011summer/gallagher.pdf)

Understanding the Gap Since World War II, a wide gap has developed between Congress and the executive branch with respect to the critical issue of war powers. Like a black hole, this gap draws in the roles and abilities of the branches to execute foreign policy. Ostensibly, this gap has resulted from two symbiotic behaviors: executive aggressiveness and congressional abdication. The historical record reveals the evolution of this phenomenon. But history does not clearly reveal the structural and political dimensions of this phenomenon. The Constitution grants most foreign policy prerogative to Congress in Article I. Article II grants the president very limited authority in the foreign policy arena.49 This results in a structural dichotomy because the executive branch is better positioned to lead and execute, but congressional actions are more indirect and diffuse. Congress’s bicameral design and widely dispersed support base do not optimize the expeditious exercise of its power. Consequently, considerable power has flowed from Congress to the president.50 Execution of US foreign policy is fraught with political uncertainty and vulnerability. Compared to domestic issues, foreign policy decisions and initiatives are susceptible to greater unpredictability.51 Therefore, when dealing with high levels of uncertainty, Congress often finds it easier to defer to the executive branch, thereby reducing congressional members’ exposure or liability.52 Because most Americans elect their congressional representatives based on domestic issues, they tend to pay little attention to foreign policy; members of Congress often defer acting on foreign policy matters as a safer political option.53 This political safe haven of indecision, however, does not serve the nation well because it encourages concentrating power in the executive branch. Likewise, it severs the link between the electorate, the constitutionally intended legislative process, and the executor. Matters of war, however, require the collective involvement of the people. Militaries fight wars, but nations go to war. In the final analysis, congressional abdication of its Article I authority to oversee the nation’s foreign policy has exposed America to unacceptable strategic risk. War, Strategy, and the Constitution One of Clausewitz’ greatest contributions to the study of war is his emphasis on the conceptual link between politics and war. “War is never a separate phenomenon,” Clausewitz wrote, “but the continuation of politics by other means.”54 Behind this proposition is a deeply textured argument about the intrinsic political purpose of war. This political purpose encompasses the components comprising war: societal disposition, economic capability, and strategy. Clausewitz advised leaders to thoroughly consider any use of violence. So the link between war and politics “should never be overlooked.”55 Even in the 21st century, war retains this political dimension despite the recent emergence of nonstate actors and transnational groups.56 In other words, success at the tactical level of war first requires careful preparations at the political and strategic levels. The enabling institutions for success in war—Congress, the president, the cabinet, and other advisors—all need to be fully engaged in the development of feasible, suitable, and acceptable strategy.57 And this carefully crafted strategy needs to include legitimate justification for violence, rigorous calculation and valuation of political objectives, and commitment of resources sufficient to achieve strategic objectives.58 Since 1945, the United States has built the world’s most capable war-fighting machine. So why, then, have most of the nation’s large military interventions since World War II ended in defeat or, at best, stalemate? Political leaders should attend more to what Clausewitz calls the political dimensions of war—national unity and the political value of the objective—as inseparable from national and military strategy. War theorists have long emphasized the importance of national unity and the political value of the war objective. Thousands of years ago, Sun Tzu identified the necessary pre-condition of national unity for successful war strategy.59 National unity enables political leaders to muster resources needed to win wars and to amass the human capital that makes an army. Clausewitz advised, “to discover how much of our resources must be mobilized for war, we must first examine our own political aim.”60 National unity underwrites the commitment the nation needs to successfully prosecute war, provided the war has political value commensurate to the effort expended.61 The founders directed this nation to use a collaborative process to assess the political value of a war. So the Constitution requires Congress to deliberate on the decision to go to war and, when it so decides, to declare war. Therefore, the Constitution serves as the guarantor of ensuring national unity and a legitimate valuation of the war’s political objective—provided through the mechanism of the war declaration. Consider the language of the 1941 war declaration against Japan. It captures the national unity, the political value of the objective, and the will and support of Congress to support the war.62 A Risk to Strategy As the practice of declaring war has become passé, American strategy has likewise become disjointed and disconnected from national security objectives. Following World War II, an acquiescent Congress and an aggressive presidency have, for decades, fostered a strategic climate that failed to maintain the links between the political dimensions of the state and its strategy. The predominant “NSC-68 thinking,” largely a product of executive national security panels that administrations have embraced and Congress has blithely followed, provided inadequate guidance on how objectives and capabilities should be joined to produce coherent overall strategy.63 This connection, Clausewitz observed, is necessary for success in war. For example, US strategy following World War II ironically came to resemble the German strategy of the early 20th century, relying heavily on military ways and means that failed to address the political and economic components of warfare.64 Historians are quick to extol the superiority of the German military machine, but Germany lost two world wars. Similarly, the United States has pursued a strategy built on loosely linked operational and tactical successes. Unfortunately, without concretely defined end states specified in a coherent all-encompassing strategy, these successes have not achieved national strategic ends. In Vietnam, Afghanistan, and Iraq, our leaders failed to properly define the national strategic ends, so the attendant strategies have been inchoate. Leaders’ attempts to match ways and means to fluctuating or poorly defined ends resulted in unacceptable levels of uncertainty and risk. These protracted and strategically uncertain conflicts are alien to America’s strategic culture, which has little tolerance for long, risky, or uncertain conflicts.65 More recently, as the executive branch exercises greater authority in directing military interventions, the gap between risk and strategy becomes wider. Theater commanders charged with developing adequate or complete strategies with sound ends and feasible ways to achieve them lack confidence in congressional support to provide the means necessary to achieve these strategic objectives.66 As the world’s only superpower, the United States can expect asymmetrical conflict as the norm. Future adversaries will increasingly focus on the strategic target of the American people’s collective will in their efforts to subvert our national strategy.67 Vietnam Strategy The tragic military and political experience of Vietnam was spawned by an aggressive president promoting foreign policy absent congressional and public blessings.68 Vietnam War strategy affirms how congressional abdication on war matters resulted in protracted disaster. As historian George Herring points out, “America’s failure in Vietnam and the tragedy that resulted also make clear what can happen when major decisions are made without debate or discussion.”69 After Congress passed the Gulf of Tonkin Resolution, the strategy formulation and decision process operated vacuously, failing to determine strategic objectives and the means to obtain them.70 President Johnson made numerous decisions concerning the strategy and operations of the war, resulting in a strategy of incremental gradualism. Despite some tactical successes, Vietnam strategy never developed sufficient coherence nor the sustained support of the American people. Through executive design, Congress and the people never fully vetted the value of the political objective in the context of large-scale military intervention before President Johnson committed forces to combat.71 As a result, President Johnson lacked the top cover of a war declaration. This prevented him from unleashing the nation’s enormous military capability to achieve full, quick military success. Instead, he implemented a strategy that he thought was least likely to jeopardize his legislative agenda, upset the domestic apple cart, or threaten his reelection.72 In retrospect, the incoherence of the Vietnam strategy reflected the real value of the political objective in the eyes of the American people; they could not have cared less about Vietnam.73 Afghanistan and Iraq Strategies The strategies for the ongoing conflicts in Iraq and Afghanistan have both failed to properly incorporate national strategic ends, ways, and means in a consistent manner across the whole of government. In the absence of a national consensus on strategic ends, Congressman James Marshall (D-GA) not surprisingly identified: The mismatches among the needs of post-conflict stability operations in Afghanistan and Iraq, the size and the types of military forces available, and the pitiful scarcity of capability in the civilian branches of our government to effect nation-building efforts, as well as, our utter incompetence as a government in strategic communications.74 US Afghanistan strategy has continually morphed from 2001 to the present. The sweeping language in the September 2001 congressional resolution did little to shape the effort and focus the nation on acceptable long-term national ends.75 A careful analysis of coalition command and control structures indicates how the United States, partners, and allies prosecuted any number of operational strategies.76 Strategic priorities changed from counterterrorism to counterinsurgency, to nation building, back to counterterrorism, then eventually to a combination of all of them. During the lead-up to Operation Iraqi Freedom, significant executive power may have subjected the strategy to unnecessary risk. Indeed, failure of Congress to deliberate a declaration of war may have resulted in poorly defined national objectives and shoddy strategy.77 Significant executive powers facilitated side-stepping full disclosure of policy risk. The president’s obsession with regime change subordinated other key elements crucial to a comprehensive strategy, particularly with respect to clear strategic ends. This obsession obscured full debate and railroaded the nation into a course of action fraught with unexamined risk. Additionally, it masked the real cost of the strategy in terms of lives and dollars and inevitably compromised support for the effort when the strategy did not unfold as planned.78 Eventually, the wars in Iraq and Afghanistan and their strategies became focal points in the 2008 presidential campaign. Similar to President Johnson on Vietnam, candidate Obama politicized the Iraq and Afghanistan conflicts, promising on the campaign trail that, if elected, he would redeploy US combat forces out of Iraq and refocus on Afghanistan as the central front on the war against extremism. This politicalization of the war efforts may have removed strategic considerations from decisionmaking, exposing the strategies to additional, unnecessary risk at a crucial time.79 Another Cry for Reform In 2009, The National War Powers Commission, a bipartisan group commissioned under the auspices of the University of Virginia’s Miller Center for Public Affairs, reviewed the existing WPR and addressed executive overreach with respect to military intervention. Chaired by Warren Christopher and James Baker, the 2009 War Powers Commission concluded that the 1973 WPR does not function as intended and needs replacement.80 Commission members testified before the House Foreign Affairs Committee and Senate Foreign Relations Committee recommending a policy to restore the constitutional grounding for mandatory congressional war declaration for “large” force deployments and “significant armed conflict.”81 The Commission recommended replacing the 1973 WPR with the War Powers Consultation Act of 2009 that adds fidelity to the size, scope, and types of conflict subject to the Act. Most significantly, it directs the president to consult with Congress before introducing troops into “significant armed conflict.”82 Despite the bipartisan clout of former Secretaries of State Warren Christopher and James Baker, the Commission’s recommendations still lacked the necessary political power to prevent the president from deploying forces into significant armed conflict without the full blessing of Congress.83 Conclusion Reminiscent of the 1973 WPR, the National War Powers Commission’s effort to redress war power authority hoists another warning flag about war power overreach and executive presumption of constitutional power. But it is insufficient to have an academic debate over the constitutionality of war authority. Since the end of World War II, an assertive executive branch has run roughshod over an abdicating Congress, which has compromised US military efficacy. It has repeatedly resulted in the expenditure of national blood and treasure for strategically hollow ends. The Constitution is, in itself, a strategic national security document. The founders’ wisdom imbued within Articles I and II capture, in the Clausewitzian sense, the necessary prerequisites for successful prosecution of war. As the executive and congressional branches deviate from US constitutional foundations with respect to war authority, they increasingly leave the military—and the nation—vulnerable to unacceptable strategic risk. The current interpretations or disregard for war power authority, as practiced today, no longer maintain the necessary connective tissue between political and military muscle movements. As a result, US national and military strategy has become disjoined from legitimate political will. American military operations are hampered by the leadership’s inability to harness the national will. If this nation declared war when it engaged in war, as the Constitution requires, the United States would wage fewer of them—and be far better positioned to win them.

#### Presidential discretion results in miscalc and war – Congressional deliberation must be revived

Adler, 2011 (David, Director of the Andrus Center for Public Policy at Boise State University, where he holds an appointment as the Cecil Andrus Professor of Public Affairs; “Presidential Ascendancy in Foreign Affairs and the Subversion of the Constitution”, Presented to the German-American Conference on “Comparisons of Parliamentary and Coordinated Power (Presidential) Systems, March 4-8, 2011, Bloomington, Indiana; http://www.civiced.org/pdfs/GermanAmericanConf2011/Adler.pdf)

A considerable literature urges executive supremacy, and extols the supposed virtues of presidential assertion, domination and control; yet this body of work often ignores the dimensions of executive flaws, foibles, and frailties. The electoral process is not infallible; an elected president may lack the wisdom, temperament and judgment, not to mention perception, expertise and emotional intelligence to produce success in matters of war and peace. Those qualities which, to be sure, are attributes of the occupant and not of the office, cannot be conferred by election. 104 Champions of a unilateral executive war power have ignored and, perhaps, forgotten the institutional safeguards of separation of powers, checks and balances and collective decision making urged by the Framers as protection from the flaws of unilateral judgment and the temptations of power. Among those who have lost their memory of the virtues and values of those institutional safeguards, apparently, are those many members of Congress and dozens of judges over the years, who have acquiesced in the face of presidential usurpation in the realm of national security. Perhaps seduced by the allure of swift, bold military action under the banner of nationalism, patriotism and ideological and political certainty, these representatives, some elected and others appointed, have forgotten their institutional duties and responsibilities. It is not probable, but certain, that the Imperial Presidency would be brought to heel if the other branches duly exercised their powers and responsibilities, but they have lost their way. No less a personage than the late Senator Sam Ervin questioned, in the course of hearings in 1973 on the unchecked executive practice of impoundment, whether the Congress of the United States will remain a viable institution or whether the current trend toward the executive use of legislative power is to continue unabated until we have arrived at a presidential form of government.” Senator Ervin justly criticized executive aggrandizement of legislative authority, but he also found Congress culpable for the rise of presidential dominance: “The executive branch has been able to seize power so brazenly only because the Congress has lacked the courage and foresight to maintain its constitutional position.” 105 What was true of impoundment, is true of the war power. Only “Congress itself,” to borrow from Justice Robert H. Jackson, “can prevent power from slipping through its fingers.”106 The siren song of unilateral presidential war making ignores the tragedies of Korea, Vietnam and Iraq, and the cost to America of its precious blood and treasure as well as denied and stolen. The American constitutional system is grounded in the conviction, as James Iredell explained it, that there is “nothing more fallible than human judgment.” 107 It is sometimes observed that the intentions of the Framers are outdated and irrelevant. But before we too readily acquiesce in that verdict, we might do well to recall the policy considerations that underlay the decision to vest the war power in Congress and not the president. Painfully aware of the horror and destructive consequences of warfare, the Framers wisely determined that before the very fate of the nation were put to risk that there ought to be some discussion, some deliberation by Congress, the people’s representatives. The Founders did not, as James Wilson explained it, want “one man to hurry us into war.”108 As things stand in the United States today, however, the president has been exercising that power. The “accretion of dangerous power,” Justice Frankfurter has reminded us, occurs when power is freed from institutional restraints, checks and safeguards. The eminently sound rationales that convinced the Framers to vest the war power 21 exclusively in Congress, however, have been ignored and abandoned in recent decades. There is a cost in that, too. It was the artist, Goya, who in one of his etchings, graphically portrayed the consequences of ignoring reason with the inscription: “The sleep of reason brings forth monsters.”109 There is no comfort to be found in a practice which permits unilateral executive war making, particularly in the age of nuclear weapons, when war might lead to the incineration of the planet. When it comes to the constitutional design for war making, it is clear that the Framers’ policy concerns are even more compelling today than they were two centuries ago.

#### Power projection is a controlling impact – the alternative risks global hotspot escalation

Thayer, 2006 (Bradley A., Assistant Professor of Political Science at the University of Minnesota, Duluth, The National Interest, November -December, “In Defense of Primacy”, lexis)

A remarkable fact about international politics today--in a world where American primacy is clearly and unambiguously on display--is that countries want to align themselves with the United States. Of course, this is not out of any sense of altruism, in most cases, but because doing so allows them to use the power of the United States for their own purposes--their own protection, or to gain greater influence. Of 192 countries, 84 are allied with America--their security is tied to the United States through treaties and other informal arrangements--and they include almost all of the major economic and military powers. That is a ratio of almost 17 to one (85 to five), and a big change from the Cold War when the ratio was about 1.8 to one of states aligned with the United States versus the Soviet Union. Never before in its history has this country, or any country, had so many allies. U.S. primacy--and the bandwagoning effect--has also given us extensive influence in international politics, allowing the United States to shape the behavior of states and international institutions. Such influence comes in many forms, one of which is America's ability to create coalitions of like-minded states to free Kosovo, stabilize Afghanistan, invade Iraq or to stop proliferation through the Proliferation Security Initiative (PSI). Doing so allows the United States to operate with allies outside of the UN, where it can be stymied by opponents. American-led wars in Kosovo, Afghanistan and Iraq stand in contrast to the UN's inability to save the people of Darfur or even to conduct any military campaign to realize the goals of its charter. The quiet effectiveness of the PSI in dismantling Libya's WMD programs and unraveling the A. Q. Khan proliferation network are in sharp relief to the typically toothless attempts by the UN to halt proliferation. You can count with one hand countries opposed to the United States. They are the "Gang of Five": China, Cuba, Iran, North Korea and Venezuela. Of course, countries like India, for example, do not agree with all policy choices made by the United States, such as toward Iran, but New Delhi is friendly to Washington. Only the "Gang of Five" may be expected to consistently resist the agenda and actions of the United States. China is clearly the most important of these states because it is a rising great power. But even Beijing is intimidated by the United States and refrains from openly challenging U.S. power. China proclaims that it will, if necessary, resort to other mechanisms of challenging the United States, including asymmetric strategies such as targeting communication and intelligence satellites upon which the United States depends. But China may not be confident those strategies would work, and so it is likely to refrain from testing the United States directly for the foreseeable future because China's power benefits, as we shall see, from the international order U.S. primacy creates. The other states are far ~~weaker~~ than China. For three of the "Gang of Five" cases--Venezuela, Iran, Cuba--it is an anti-U.S. regime that is the source of the problem; the country itself is not intrinsically anti-American. Indeed, a change of regime in Caracas, Tehran or Havana could very well reorient relations. THROUGHOUT HISTORY, peace and stability have been great benefits of an era where there was a dominant power--Rome, Britain or the United States today. Scholars and statesmen have long recognized the irenic effect of power on the anarchic world of international politics. Everything we think of when we consider the current international order--free trade, a robust monetary regime, increasing respect for human rights, growing democratization--is directly linked to U.S. power. Retrenchment proponents seem to think that the current system can be maintained without the current amount of U.S. power behind it. In that they are dead wrong and need to be reminded of one of history's most significant lessons: Appalling things happen when international orders collapse. The Dark Ages followed Rome's collapse. Hitler succeeded the order established at Versailles. Without U.S. power, the liberal order created by the United States will end just as assuredly. As country and western great Ral Donner sang: "You don't know what you've got (until you lose it)." Consequently, it is important to note what those good things are. In addition to ensuring the security of the United States and its allies, American primacy within the international system causes many positive outcomes for Washington and the world. The first has been a more peaceful world. During the Cold War, U.S. leadership reduced friction among many states that were historical antagonists, most notably France and West Germany. Today, American primacy helps keep a number of complicated relationships aligned--between Greece and Turkey, Israel and Egypt, South Korea and Japan, India and Pakistan, Indonesia and Australia. This is not to say it fulfills Woodrow Wilson's vision of ending all war. Wars still occur where Washington's interests are not seriously threatened, such as in Darfur, but a Pax Americana does reduce war's likelihood, particularly war's worst form: great power wars. Second, American power gives the United States the ability to spread democracy and other elements of its ideology of liberalism. Doing so is a source of much good for the countries concerned as well as the United States because, as John Owen noted on these pages in the Spring 2006 issue, liberal democracies are more likely to align with the United States and be sympathetic to the American worldview.3 So, spreading democracy helps maintain U.S. primacy. In addition, once states are governed democratically, the likelihood of any type of conflict is significantly reduced. This is not because democracies do not have clashing interests. Indeed they do. Rather, it is because they are more open, more transparent and more likely to want to resolve things amicably in concurrence with U.S. leadership. And so, in general, democratic states are good for their citizens as well as for advancing the interests of the United States. Critics have faulted the Bush Administration for attempting to spread democracy in the Middle East, labeling such an effort a modern form of tilting at windmills. It is the obligation of Bush's critics to explain why democracy is good enough for Western states but not for the rest, and, one gathers from the argument, should not even be attempted. Of course, whether democracy in the Middle East will have a peaceful or stabilizing influence on America's interests in the short run is open to question. Perhaps democratic Arab states would be more opposed to Israel, but nonetheless, their people would be better off. The United States has brought democracy to Afghanistan, where 8.5 million Afghans, 40 percent of them women, voted in a critical October 2004 election, even though remnant Taliban forces threatened them. The first free elections were held in Iraq in January 2005. It was the military power of the United States that put Iraq on the path to democracy. Washington fostered democratic governments in Europe, Latin America, Asia and the Caucasus. Now even the Middle East is increasingly democratic. They may not yet look like Western-style democracies, but democratic progress has been made in Algeria, Morocco, Lebanon, Iraq, Kuwait, the Palestinian Authority and Egypt. By all accounts, the march of democracy has been impressive. Third, along with the growth in the number of democratic states around the world has been the growth of the global economy. With its allies, the United States has labored to create an economically liberal worldwide network characterized by free trade and commerce, respect for international property rights, and mobility of capital and labor markets. The economic stability and prosperity that stems from this economic order is a global public good from which all states benefit, particularly the poorest states in the Third World. The United States created this network not out of altruism but for the benefit and the economic well-being of America. This economic order forces American industries to be competitive, maximizes efficiencies and growth, and benefits defense as well because the size of the economy makes the defense burden manageable. Economic spin-offs foster the development of military technology, helping to ensure military prowess. Perhaps the greatest testament to the benefits of the economic network comes from Deepak Lal, a former Indian foreign service diplomat and researcher at the World Bank, who started his career confident in the socialist ideology of post-independence India. Abandoning the positions of his youth, Lal now recognizes that the only way to bring relief to desperately poor countries of the Third World is through the adoption of free market economic policies and globalization, which are facilitated through American primacy.4 As a witness to the failed alternative economic systems, Lal is one of the strongest academic proponents of American primacy due to the economic prosperity it provides. Fourth and finally, the United States, in seeking primacy, has been willing to use its power not only to advance its interests but to promote the welfare of people all over the globe. The United States is the earth's leading source of positive externalities for the world. The U.S. military has participated in over fifty operations since the end of the Cold War--and most of those missions have been humanitarian in nature. Indeed, the U.S. military is the earth's "911 force"--it serves, de facto, as the world's police, the global paramedic and the planet's fire department. Whenever there is a natural disaster, earthquake, flood, drought, volcanic eruption, typhoon or tsunami, the United States assists the countries in need. On the day after Christmas in 2004, a tremendous earthquake and tsunami occurred in the Indian Ocean near Sumatra, killing some 300,000 people. The United States was the first to respond with aid. Washington followed up with a large contribution of aid and deployed the U.S. military to South and Southeast Asia for many months to help with the aftermath of the disaster. About 20,000 U.S. soldiers, sailors, airmen and marines responded by providing water, food, medical aid, disease treatment and prevention as well as forensic assistance to help identify the bodies of those killed. Only the U.S. military could have accomplished this Herculean effort. No other force possesses the communications capabilities or global logistical reach of the U.S. military. In fact, UN peacekeeping operations depend on the United States to supply UN forces. American generosity has done more to help the United States fight the War on Terror than almost any other measure. Before the tsunami, 80 percent of Indonesian public opinion was opposed to the United States; after it, 80 percent had a favorable opinion of America. Two years after the disaster, and in poll after poll, Indonesians still have overwhelmingly positive views of the United States. In October 2005, an enormous earthquake struck Kashmir, killing about 74,000 people and leaving three million homeless. The U.S. military responded immediately, diverting helicopters fighting the War on Terror in nearby Afghanistan to bring relief as soon as possible. To help those in need, the United States also provided financial aid to Pakistan; and, as one might expect from those witnessing the munificence of the United States, it left a lasting impression about America. For the first time since 9/11, polls of Pakistani opinion have found that more people are favorable toward the United States than unfavorable, while support for Al-Qaeda dropped to its lowest level. Whether in Indonesia or Kashmir, the money was well-spent because it helped people in the wake of disasters, but it also had a real impact on the War on Terror. When people in the Muslim world witness the U.S. military conducting a humanitarian mission, there is a clearly positive impact on Muslim opinion of the United States. As the War on Terror is a war of ideas and opinion as much as military action, for the United States humanitarian missions are the equivalent of a blitzkrieg. THERE IS no other state, group of states or international organization that can provide these global benefits. None even comes close. The United Nations cannot because it is riven with conflicts and major cleavages that divide the international body time and again on matters great and trivial. Thus it lacks the ability to speak with one voice on salient issues and to act as a unified force once a decision is reached. The EU has similar problems. Does anyone expect Russia or China to take up these responsibilities? They may have the desire, but they do not have the capabilities. Let's face it: for the time being, American primacy remains humanity's only practical hope of solving the world's ills.

#### And, there’s strong statistical support

Drezner, 2005 (Daniel, professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University, “Gregg Easterbrook, War, and the Dangers of Extrapolation”, May 25, http://www.danieldrezner.com/archives/002087.html)

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

#### Statutory restrictions solve the reliability dilemmas inherent to Presidential discretion

Manzi, 9/5 (Jim, a senior fellow at the Manhattan Institute and founder and chairman of Applied Predictive Technologies (APT), an applied artificial intelligence software company; “A Dissent on Syria”, The National Review, 2013, http://www.nationalreview.com/corner/357680/dissent-syria-jim-manzi)

On Tuesday, this magazine again endorsed military action in Syria. I disagree. Though it is difficult to know precisely what action is being contemplated, I hope and expect that if the U.S. does launch such an attack, that our military would accomplish its defined tasks, and that we would more likely than not avoid some kind of a disaster. But the risks of a terrible outcome are not trivial, and not worth the putative benefits. The most common argument for attacking Syria is that we must maintain our credibility when the sitting president issues ultimatums (even if they are ill-advised). The problem with this is that while the president of the United States has awesome powers under the Constitution, they do not include declaring war. He can declare “red lines” all he wants, but he can’t constitutionally commit the nation to preemptive military action in the event they are crossed. If this “loss of credibility” means in practical terms that U.S. presidents are less able to make credible insinuations that they can unilaterally commit us to wars, then this would likely result in: fewer such presidential assertions being issued; more consultation and consideration before they are issued; and more reliable delivery on the threats when the situation calls for it. Such a loss of credibility would be a feature, not a bug. The best argument for attacking Syria is that it is necessary to maintain a credible deterrent against the use of chemical weapons in order to protect ourselves. This argument should carry great weight, but unfortunately we are on the horns of a dilemma. On one hand, if the attack is not severe enough to force Assad from power, then where is the deterrence? If he is prepared to order (or at least tolerate) the gassing of thousands of citizens of his own country, why would the prospect of losing some soldiers and military facilities deter him or others like him? Even if it entirely eliminated his chemical-weapons capacity, he would still be in power, would have gotten the benefit of using them, and would have shown both that he can take a punch from the U.S. and that he is tough enough to do anything to win. Even after the fact and in full knowledge of such a U.S. attack, he would likely view using the weapons as having a positive net outcome. But on the other hand, forcing Assad from power represents a far larger and more uncertain undertaking than has been publicly discussed. This is the course of action advocated by the editors: “a broader, longer-term plan to topple Assad and defeat his allies.” Those are smooth words for a rough job. How would we accomplish this? How many people would we kill, and how much public money would we spend? Why do we believe that the rebels would form a government that would not be worse for us? How would Iran attempt to counter such an intervention, since they have an extremely strong interest in the outcome? And so on. The litany of costs and dangers ought to be familiar to anybody after Iraq and Afghanistan. Would you voluntarily take on one-tenth the cost in deaths and money of either of those wars to replace Assad with whatever is likely to follow him? Wandering into that kind of a commitment based on what has been presented to the American people so far would be extremely rash. In summary, either an attack would be too small to accomplish deterrence against future users of chemical weapons, or it would be a much broader war to force regime change with enormous costs and risks. In contrast, the arguments against attacking Syria at this time are direct and persuasive: As yet, there are no clearly stated objectives that define victory. Any attempt to define a vital national interest for America requires extremely dubious extrapolations of the effect of actions in Syria today on some hypothetical future actors. The risks of open-ended entanglement are severe. We have other means of protecting ourselves against the threat of chemical attack, including deterrence with existing chemical weapons, which proved itself largely successful even against Hitler in the midst of total war. It is deeply unpopular, and our closest militarily significant ally has declined to participate. While we should not want war by plebiscite, this last point is important. In movies, dictators and their hive societies are often portrayed as almost invincible war machines. In the real world, free societies since the time of the democracy in Athens have done pretty well for themselves in wars. Partly, this is because the support of the society prior to starting a war leads to sustained support in the face of inevitable setbacks. And partly it is because public support provides very useful information about the wisdom of the war in the first place. You might think that the last dozen years would have taught the most influential foreign-policy “experts” a little humility about their judgment in these matters. Apparently, you would be wrong.

#### Executive flexibility cannot be properly controlled – ensures entanglement – plan redistributes power and checks circumvention

Brookings, 2013 (Brookings Institution, Summary of a discussion “The Road to War: Presidential Commitments and Congressional Responsibility”, Moderator: Martin Indyk, Vice President and Director of Foreign Policy at Brookings; Featured Speaker: Marvin Kalb, Guest Scholar in foreign Policy at Brookings, Discussant: Michael O’Hanlon, Director of Research in Foreign Policy at Brookings, June 20, http://www.brookings.edu/events/2013/06/20-war-presidential-power)

At a Brookings event on June 20, 2013, veteran political journalist and Brookings Guest Scholar Marvin Kalb, author of The Road to War: Presidential Commitments Honored and Betrayed (Brookings Press, 2013), argued that presidents have “unbounded” powers over matters of national security. Kalb began his remarks explaining the dangers of presidential control over military action and the impact that treaty commitments have on U.S. chances to avoid war. Although the United States has been involved in many conflicts throughout its history, it has only declared war five times formally through Congress: the War of 1812, the Mexican-American War, the Spanish-American War, World War I, and World War II. Kalb noted that the key reason why presidents do not go to Congress for formal declarations of war is because Congress has abrogated responsibilities in foreign policy decision-making to the executive. Furthermore, Congress has essentially become “irrelevant in conduct and execution of American foreign policy.” Kalb explained that Congress has imparted foreign policy decision-making to the executive out of “laziness and fear” because members focus their time on raising money, not war and peace. Ever since WWII, Kalb said that “history has led us into conflicts that we don’t understand” because presidents do not seek approval from Congress for declarations of war. The country has reached a point now where “presidential power is so great, words out of his mouth become policy for the United States.” Kalb used the Syrian civil war and President Obama’s “red line” policy as an example of how a president’s words become strategy for the United States. Kalb argued that this presidential “flexibility” in foreign policy decision-making has repeatedly led the country into one misguided war to the next such as the Vietnam and Iraq wars. To nullify these poor decisions, Kalb believes that formal congressional declarations of war will help “trigger the appreciation for the gravity of war” and assist in “unifying the nation” behind a strategic military intervention, resulting in more positive outcomes for the United States. He concluded his remarks by noting that declarations of war by Congress are “stark commitments,” and statements by the president of the United States must be thoroughly discussed to make well-informed decisions that will be in the best interest of the American people. Conflicts must be understood before the decision is made to send American troops to war, and presidents of the United States should converse with Congress before taking any military action.

### Contention Two: Credibility

\*\*hair-trigger waters down all alliances – risk of over-commitment or adventurism “elsewhere” trades off with reliability to allies

#### Presidential hair-trigger diminishes America’s international position – refocusing war processes is critical

Haass, 2013 (Richard, Council on Foreign Relations President, “Is the U.S. Overreaching Abroad?” PBS News Hour, Conversation with Richard Haass, Interviewer, Margaret Warner, May 28, <http://www.pbs.org/newshour/bb/world/jan-june13/haas_05-28.html>)

**MARGARET WARNER:** Now, let me ask you this. The last three presidents, if you start with Bill Clinton, George W. Bush and Barack Obama, all essentially campaigned initially on this theme. And, of course, then Kosovo and Bosnia wars. Then you had 9/11. Then you had Afghanistan and Iraq wars. Why -- one, were those misplaced for the presidents to get so involved in those? Why was it so hard for them to resist getting involved overseas? **RICHARD HAASS:** To a large extent, they were misplaced. Yes, there were some things we needed to do after 9/11, but most of what we have done abroad in the last 20 or so years I would say were wars of choice. And in many cases, our vital national interests weren't at stake. Presidents got pressured. And more often than not, they gave into the pressure. In some cases, the president just decided, like George W. Bush, that we would embark on a major adventure to remake the Middle East. And I simply think it was ill-advised. At the same time, they didn't tend for the most part on things at home. So we funded, for example, a new prescription drug benefit program. Well, where's that going to come from? Or we had the Simpson-Bowles commission under this administration. It gets reintroduced and then essentially it gets orphaned. And we're not doing anything now, so five, 10, 20 years from now when all the baby boomers are retired, we have got enough to take care of them. MARGARET WARNER: Now, you're not saying all wars are to be avoided. Only, we have to be more discriminating. RICHARD HAASS: Absolutely. MARGARET WARNER: What's the criteria? RICHARD HAASS: This is not an isolationist book. I actually want us to do more in Asia, where the great powers, the economic powers of the day are increasingly colliding. Wars of necessity, where our vital national interests are at stake, where there are not good alternatives, we ought to fight those. But something like Syria, which is very much in the news, is not a vital national interest. There are alternatives to the United States getting heavily involved. We have always got to ask ourselves two questions: Can we make a difference, given local realities? And, second of all, do we have the luxury, if you will, of focusing on one square of a chessboard, given everything else in the world and everything here at home? And what I try to write is something of a guide to working through those challenges. MARGARET WARNER: All right, but that is where your doctrine will be most immediately put to the test is what to do about Syria. So what are the alternatives? You're saying don't get involved at all militarily? Are you say no to no-fly zone? Are you saying no to even further arming the rebels? RICHARD HAASS: I'm OK with selectively arming rebels. That's an indirect form of involvement. I'm OK conceivably with certain very, very limited military actions, for example, cruise missile strikes if chemical weapons are used. But, no, I don't want to set up no-fly zones. I don't want the U.S. Air Force involved. I certainly don't want soldiers on the ground. I don't want to be responsible for trying to put Humpty Dumpty back together again. If and when the Assad regime goes, that's when the really difficult stuff is going to begin. That's what we should have learned from Afghanistan. That's what we should have learned from Iraq, a little bit of humility. There are limits to what American to power can do. Instead, we ought to focus it in foreign policy, where we really know our tools can be useful. And, more important, we ought to focus it here at home. We want to be a leader for the long haul. We don't want to be a short-term power. I have recently written, we want the 21st century to be a second American century. It will only be that if we first get strong again, and that means fixing things here at home. MARGARET WARNER: And what are the consequences if we don't? RICHARD HAASS: Interesting enough, the alternative to an American-led world, it is not a China-led world. It's not an India- or Europe- or Japan-led world. It's a world that no one leads. That's a world that's chaotic. And what we have learned is the world is not Las Vegas. What happens there doesn't stay there. It comes here. So a world in which there's chaos out there, that chaos will come here in the form of terrorists, the form of a breakdown of economic relations, in the form of climate change, in the form of nuclear proliferation. We have got to stay involved, but, again, we will only be able to do it if we're strong.

#### Congressional approval ensures common purpose – signals credible foreign policy and affirms international coalition-building while preserving the military option

Frye, 2002 (Alton, President Senior Fellow Emeritus, “Applying the War Powers Resolution to the War on Terrorism”, Council on Foreign Relations, April 17, http://www.cfr.org/terrorism/applying-war-powers-resolution-war-terrorism/p4514)

4. CONSENSUS IS ESSENTIAL TO NATIONAL COHESION The case for active, continuing congressional engagement on the many issues of high policy presented by an open-ended campaign against terrorism does not rest on an instinct for institutional self-aggrandizement. It is grounded in the critical need to forge and maintain America’s social cohesion as a nation caught up in war. War, especially prolonged war, always poses the risk of depleting that cohesion, so vital to domestic harmony and international effectiveness. Members of Congress should also realize how essential their involvement is to the morale and cohesion of the military men and women sent to do violence on our behalf. One of our most distinguished and thoughtful military leaders, former Army Chief of Staff, General Edward Meyer, emphasized that point some months ago. In a letter to Congressman Thomas Campbell, who was then seeking a definitive judicial ruling on the constitutional balance of war powers, General Meyer wrote, “I believe it is essential that when American ~~servicemen~~ [servicepeople] are sent into combat that they have the support of their fellow Americans. The War Powers Act causes the people’s representatives (the Congress) to take a position, and not leave the troops dangling on threads of definition and interpretation.” The parallel, policy-centered procedures outlined here would serve that same need. Congress’s stand on how our nation uses the mighty arsenal at its disposal also bears crucially on America’s standing in the world. Even among our closest allies, American power elicits mixed emotions: awe and fear, respect and anxiety. That should surprise no one. Military and economic capabilities of the magnitude America possesses cannot fail to cause alarm in other countries, however benign our intentions. That alarm is heightened to the degree that American force appears to be too easily deployed. In the eyes of others, no less than of our own citizens, American military action may be seen as most legitimate when it is demonstrably subject to democratic governance. This insight is akin to Justice Jackson’s memorable formulation that the President’s power is at its maximum only when he acts “pursuant to an explicit or implied authorization of Congress.” Marshaling international coalitions to wage the war on terrorism will depend importantly on giving our allies confidence that American power is guided and restrained by a disciplined relationship between Congress and President. Absent attentive, persistent congressional involvement, public diplomacy in the war on terrorism could lose much of the credibility that arises from the perception of America as a model of representative government. There is thus an enduring necessity to balance executive potency in military endeavors with the legislative review that provides democratic legitimacy. The challenge is not to enchain the presidency but to harness both branches to common purpose. On that insight the War Powers Resolution was founded, and in that insight may be found the germ of other innovations to guarantee that Congress will play its proper constitutional role in the war on terrorism.

\*edited for gendered language

#### And, presidential discretion collapses our ability to sustain global alliances and multilateral institutions

Schiffer and Currier, 2008 (Adam, an assistant professor of political science at Texas Christian University; Carrie Liu, an assistant professor of political science at Texas Christian University; “War Powers, International Alliances, the President, and Congress”, http://apcentral.collegeboard.com/apc/public/repository/US\_Gov\_Balance\_of\_Power\_SF.pdf)

The president’s advantages over Congress in the foreign policy realm have consequences far beyond the intra-governmental struggle over power and accountability. In recent years, the use of military force by the United States to compel other countries to abide by international norms or laws has generated criticism from members of the global community. Specifically the fear is that U.S. foreign policy in the post–Cold War era has become the pursuit of a new world order that essentially reflects American hegemony. The “war on terror,” the Bush doctrine, and the war efforts in Afghanistan and Iraq have all showcased the commitment of the United States to unilateralism rather than coalition building, and raise concern about the powers of the American presidency. During the Cold War, the absence of multilateralism in U.S. foreign policy was not as problematic as it appears today. However, the strengthening of presidential authority under the second Bush administration has raised alarm in many countries around the world. In the past, the bipolar nature of the international system and the lack of consensus found among the five permanent members of the United Nations Security Council decreased the likelihood the United States could draw on multilateral action to counter its adversaries. In contrast, the post–Cold War era is one where countries are expected to fully utilize institutions like the United Nations to garner international support and establish coalitions, rather than resorting to unilateralism. Thus, the international community has been critical of countries that appear to circumvent these norms when dealing with global conflicts in the contemporary period. To highlight some of the differences in the international community’s post–Cold War support for U.S. military action abroad, we briefly examine the cases of the Persian Gulf War (1991) and the war in Iraq (2003). Both cases effectively demonstrate how two presidents, George H. W. Bush and George W. Bush, utilized the spirit of the War Powers Resolution in consulting with Congress but then reveal how their use of presidential authority led to very disparate degrees of support from the international community. These two examples of U.S. military action in the Middle East offer several useful bases for comparison. In both conflicts there were underlying interests in securing oil resources, a desire to remove Saddam Hussein from power, and a sense that Iraq was seeking regional hegemony and defying international law based on its invasion of Kuwait in 1990 and its continued development of a weapons of mass destruction program. The contrasting responses of President George H. W. Bush and his son George W. Bush, however, illustrate how much discretion is left to the president in the current practice of war powers. In the first Gulf War, President George H. W. Bush fully utilized the international structures in place by getting the UN Security Council to adopt Resolution 678 authorizing member states to use “all necessary means,” including military force, to drive Iraq out of Kuwait and comply with international law. In accordance with the War Powers Resolution the president reported to Congress on Iraq’s refusal to adhere to the Security Council resolution, and indicated he was prepared to craft a multilateral strategy to respond to the crisis. He did not march the troops north to Baghdad and overthrow Saddam Hussein at this time because he had neither the approval nor the support of the UN to take these initiatives at the time. The Iraq policy set forth by the Bush administration thus relied on the use of a multilateral coalition to generate a sense of domestic and international legitimacy to the military actions taken by the United States and its allies, and was acknowledged as within the acceptable parameters as determined by the global community. In contrast, the 2003 war in Iraq did not gain the support of the UN Security Council and was largely a unilateral effort by President George W. Bush. This unilateralist strategy can be seen on two levels, in the sense that he did not consult with allies and that his actions were rather declaratory with minimum consultation with Congress (Dumbrell 2002, 284). Global leaders warned that preemptive war and “American-led military action was illegitimate, threatened the future of the United Nations, undermined international support for the ‘war on terrorism,’ and created new threats to international peace and security” (Dombrowski and Payne 2003, 395). The “coalition of the willing” that supported U.S. initiatives in Iraq was negligible in both size and relative power and was not an attempt at true multilateralism. UN Resolution 1441, indicating Iraq was in material breach with regard to its WMD program, had been carefully worded so as not to permit an American military operation to enforce Iraq’s compliance. Instead, the Security Council was only willing to reopen discussions of weapons inspections and engage in further fact-finding. The terrorism rhetoric used by the second Bush administration established the urgent need for a U.S. response, and further served the president’s unilateralist efforts by instilling a sense of danger in waiting for other actors to give legitimacy to the U.S.-led war. The battle between the unilateralists and multilateralists with regard to U.S. foreign policy raises concerns about presidents whose actions promote American exceptionalism. The idea that the United States operates with an authority above supranational institutions like the UN gives the impression that the country and the president have the ability to engage in reckless foreign policy behavior with few repercussions. The post–Cold War increase in UN action raises concerns about whether the War Powers Resolution should be amended to either facilitate or restrain the president’s ability to supply troops for UN missions without congressional approval (Grimmett 2004). Until then, the two cases of U.S. military action in the Middle East demonstrate important comparisons in how multilateralism and unilateralism are viewed by the global community and how they are used to establish the legitimacy of American foreign policy.

#### Restrained use of force is the only way to preserve institutions globally – the alternative is extinction

Ikenberry, 2011 (G. John, Albert G. Milbank Professor of Politics and International Affairs at Princeton University, “A World of Our Making”, Democracy Journal, Issue 21, Summer, http://www.democracyjournal.org/21/a-world-of-our-making-1.php?page=all)

Grand Strategy as Liberal Order Building American dominance of the global system will eventually yield to the rise of other powerful states. The unipolar moment will pass. In facing this circumstance, American grand strategy should be informed by answers to this question: What sort of international order would we like to see in place in 2020 or 2030 when America is less powerful? Grand strategy is a set of coordinated and sustained policies designed to address the long-term threats and opportunities that lie beyond the country’s shores. Given the great shifts in the global system and the crisis of liberal hegemonic order, how should the United States pursue grand strategy in the coming years? The answer is that the United States should work with others to rebuild and renew the institutional foundations of the liberal international order and along the way re-establish its own authority as a global leader. The United States is going to need to invest in alliances, partnerships, multilateral institutions, special relationships, great-power concerts, cooperative security pacts, and democratic security communities. That is, the United States will need to return to the great tasks of liberal order building. It is useful to distinguish between two types of grand strategy: positional and milieu oriented. With a positional grand strategy, a great power seeks to diminish the power or threat embodied in a specific challenger state or group of states. Examples are Nazi Germany, Imperial Japan, the Soviet bloc, and perhaps—in the future—Greater China. With a milieu-oriented grand strategy, a great power does not target a specific state but seeks to structure its general international environment in ways that are congenial with its long-term security. This might entail building the infrastructure of international cooperation, promoting trade and democracy in various regions of the world, and establishing partnerships that might be useful for various contingencies. My point is that under conditions of unipolarity, in a world of diffuse threats, and with pervasive uncertainty over what the specific security challenges will be in the future, this milieu-based approach to grand strategy is necessary. The United States does not face the sort of singular geopolitical threat that it did with the fascist and communist powers of the last century. Indeed, compared with the dark days of the 1930s or the Cold War, America lives in an extraordinarily benign security environment. Rather than a single overriding threat, the United States and other countries face a host of diffuse and evolving threats. Global warming, nuclear proliferation, jihadist terrorism, energy security, health pandemics—these and other dangers loom on the horizon. Any of these threats could endanger Americans’ lives and way of life either directly or indirectly by destabilizing the global system upon which American security and prosperity depends. What is more, these threats are interconnected—and it is their interactive effects that represent the most acute danger. And if several of these threats materialize at the same time and interact to generate greater violence and instability, then the global order itself, as well as the foundations of American national security, would be put at risk. What unites these threats and challenges is that they are all manifestations of rising security interdependence. More and more of what goes on in other countries matters for the health and safety of the United States and the rest of the world. Many of the new dangers—such as health pandemics and transnational terrorist violence—stem from the ~~weakness~~ of states rather than their strength. At the same time, technologies of violence are evolving, providing opportunities for ~~weak~~ states or nonstate groups to threaten others at a greater distance. When states are in a situation of security interdependence, they cannot go it alone. They must negotiate and cooperate with other states and seek mutual restraints and protections. The United States can-not hide or protect itself from threats under conditions of rising security interdependence. It must get out in the world and work with other states to build frameworks of cooperation and leverage capacities for action against this unusually diverse, diffuse, and unpredictable array of threats and challenges. This is why a milieu-based grand strategy is attractive. The objective is to shape the international environment to maximize your capacities to protect the nation from threats. To engage in liberal order building is to invest in international cooperative frameworks—that is, rules, institutions, partnerships, networks, standby capacities, social knowledge, etc.—in which the United States operates. To build international order is to increase the global stock of “social capital”—which is the term Pierre Bourdieu, Robert Putnam, and other social scientists have used to define the actual and potential resources and capacities within a political community, manifest in and through its networks of social relations, that are available for solving collective problems. If American grand strategy is to be organized around liberal order building, what are the specific objectives and what is the policy agenda? There are five such objectives. First, the United States needs to lead in the building of an enhanced protective infrastructure that helps prevent the emergence of threats and limits the damage if they do materialize. Many of the threats mentioned above are manifest as socioeconomic backwardness and failure that cause regional and international instability and conflict. These are the sorts of threats that are likely to arise with the coming of global warming and epidemic disease. What is needed here is institutional cooperation to strengthen the capacity of governments and the international com-munity to prevent epidemics or food shortages or mass migrations that create global upheaval—and mitigate the effects of these upheavals if they occur. The international system already has a great deal of this protective infrastructure—institutions and networks that pro-mote cooperation over public health, refugees, and emergency aid. But as the scale and scope of potential problems grow in the twenty-first century, investments in these preventive and management capacities will also need to grow. Early warning systems, protocols for emergency operations, standby capacities, etc.—these safeguards are the stuff of a protective global infrastructure. Second, the United States should recommit to and rebuild its security alliances. The idea is to update the old bargains that lie behind these security pacts. In NATO, but also in the East Asia bilateral partner-ships, the United States agrees to provide security protection to the other states and brings its partners into the process of decision-making over the use of force. In return, these partners agree to work with the United States—providing manpower, logistics, and other types of support—in wider theaters of action. The United States gives up some autonomy in strategic decision-making, although it is more an informal restraint than a legally binding one, and in exchange it gets cooperation and political support. Third, the United States should reform and create encompassing global institutions that foster and legitimate collective action. The first move here should be to reform the United Nations, starting with the expansion of the permanent membership on the Security Council. Several plans have been proposed. All of them entail adding new members—such as Germany, Japan, India, Brazil, South Africa, and others—and reforming the voting procedures. Almost all of the candidates for permanent membership are mature or rising democracies. The goal, of course, is to make them stakeholders in the United Nations and thereby strengthen the primacy of the UN as a vehicle for global collective action. There really is no substitute for the legitimacy that the United Nations can offer to emergency actions—humanitarian interventions, economic sanctions, uses of force against terrorists, and so forth. Public support in advanced democracies grows rapidly when their governments can stand behind a UN-sanctioned action. Fourth, the United States should accommodate and institution-ally engage China. China will most likely be a dominant state, and the United States will need to yield to it in various ways. The United States should respond to the rise of China by strengthening the rules and institutions of the liberal international order—deepening their roots, integrating rising capitalist democracies, sharing authority and functional roles. The United States should also intensify cooperation with Europe and renew joint commitments to alliances and multilateral global governance. The more that China faces not just the United States but the entire world of capitalist democracies, the better. This is not to argue that China must face a grand counterbalancing alliance against it. Rather, it should face a complex and highly integrated global system—one that is so encompassing and deeply entrenched that it essentially has no choice but to join it and seek to prosper within it. The United States should also be seeking to construct a regional security order in East Asia that can provide a framework for managing the coming shifts. The idea is not to block China’s entry into the regional order but to help shape its terms, looking for opportunities to strike strategic bargains at various moments along the shifting power trajectories and encroaching geopolitical spheres. The big bargain that the United States will want to strike is this: to accommodate a rising China by offering it status and position within the regional order in return for Beijing’s acceptance and accommodation of Washington’s core strategic interests, which include remaining a dominant security provider within East Asia. In striking this strategic bargain, the United States will also want to try to build multilateral institutional arrangements in East Asia that will tie China to the wider region. Fifth, the United States should reclaim a liberal internationalist public philosophy. When American officials after World War II championed the building of a rule-based postwar order, they articulated a distinctive internationalist vision of order that has faded in recent decades. It was a vision that entailed a synthesis of liberal and realist ideas about economic and national security, and the sources of stable and peaceful order. These ideas—drawn from the experiences with the New Deal and the previous decades of war and depression—led American leaders to associate the national interest with the building of a managed and institutionalized global system. What is needed today is a renewed public philosophy of liberal internationalism—a shift away from neoliberal-ism—that can inform American elites as they make trade-offs between sovereignty and institutional cooperation. Under this philosophy, the restraint and the commitment of American power went hand in hand. Global rules and institutions advanced America’s national interest rather than threatened it. The alternative public philosophies that have circulated in recent years—philosophies that champion American unilateralism and disentanglement from global rules and institutions—did not meet with great success. So an opening exists for America’s postwar vision of internationalism to be updated and rearticulated today. The United States should embrace the tenets of this liberal public philosophy: Lead with rules rather than dominate with power; provide public goods and connect their provision to cooperative and accommodative policies of others; build and renew international rules and institutions that work to reinforce the capacities of states to govern and achieve security and economic success; keep the other liberal democracies close; and let the global system itself do the deep work of liberal modernization. As it navigates this brave new world, the United States will find itself needing to share power and rely in part on others to ensure its security. It will not be able to depend on unipolar power or airtight borders. It will need, above all else, authority and respect as a global leader. The United States has lost some of that authority and respect in recent years. In committing itself to a grand strategy of liberal order building, it can begin the process of gaining it back.

### Contention Three: Solvency

#### Congress should approve each use of military force – it is quick, effective, and key to military effectiveness

Frye, 2002 (Alton, President Senior Fellow Emeritus, “Applying the War Powers Resolution to the War on Terrorism”, Council on Foreign Relations, April 17, http://www.cfr.org/terrorism/applying-war-powers-resolution-war-terrorism/p4514)

Three decades’ experience under the War Powers Act has been mixed, but on balance disappointing. Senator Javits had hoped that the measure would provide the basis for orderly cooperation between the branches on decisions regarding the use of force. The resistance of every President to the law, beginning with President Nixon’s unsuccessful veto, and the Supreme Court’s refusal to provide a definitive ruling on the law’s constitutionality have left a worrisome cloud over legislative-executive relations in this crucial field. Rather than leaving this unwholesome situation to fester and to hamper future interbranch cooperation in the war on terrorism or other military crises, there is evidently a need to try a new approach. In the spirit of brainstorming I would offer a preliminary suggestion. Focusing on the initial premise that animated Senator Javits, Senator Stennis and others, is there a way to make certain that Congress reaches the high policy questions in a timely and appropriate way? Perhaps the course of wisdom lies in doing less than the War Powers Resolution attempted. By and large the executive has complied with the reporting requirements set forth in the 1973 Act, although it has played word games by filing such reports as “consistent with” rather than “in compliance with” the resolution. Those reports could be the basis for a different response by the Congress. Instead of linking the congressional determination on the wisdom of a particular use of force with mandated deadlines for withdrawal or other stipulations of executive actions, Congress could address the basic policy question in pristine form: Does the Congress authorize the use of American military power in this situation and for purposes recommended by the President? Using expedited procedures similar to those in the War Powers Resolution and possibly framing the issue in concurrent resolution form, Congress could deal with that question as a distinct one, reserving for separate consideration whether and how to apply its power of the purse or other authority to enforce its verdict. Even when not connected directly to legal mandates, constraints or budgets, freestanding policy resolutions can establish the political context and the practical premise for implementing and enforcing the policy decision. As courts often separate verdict from sentencing, Congress may find it wise to separate policy verdict from pragmatic consequences.

#### Statutory restrictions are the ONLY effective mechanism

Martin, 2011 (Craig, Visiting Assistant Professor at the University of Baltimore Law School, “Taking War Seriously: A Model for Constitutional Constraints on the Use of Force in Compliance with International Law”, Brooklyn Law Review, Winter, 76 Brooklyn L. Rev. 611, Lexis)

Turning to the second element of the Model--the provision that would require legislative approval of decisions to use force--there is of course considerable theoretical support for such a constitutional structure. As we have already discussed, the concept dates back at least to the development of the American Articles of Confederation, and the war powers provisions of the U.S. Constitution continues to be a model of the principle. It is also one of the central issues in the war powers debate that has been raging in the United States for over a hundred years. But much of the modern debate in the United States is over the precise meaning and exact scope of the war powers provisions of the U.S. Constitution, and the particulars of many of those arguments need not concern us [\*680] here. n257 As we have already reviewed, however, the primary motive of many of the drafters of the U.S. Constitution, as expressed most clearly by Madison, was to reduce the likelihood of war. n258 And the theoretical arguments of Madison, Kant, and others in support of such a separation of powers related to both the domestic objectives of the state: putting an important check on the state's rush to war and increasing the democratic accountability of the process of deciding on war; and the broader goals of reducing the incidence of war generally in the international system. In this sense, the arguments in support of this element of the Model again relate to the causes of war at both the domestic level and the international level. The starting point is the insight that requiring legislative approval of executive decision making on the use of force will likely reduce the risk of rash decisions to go to war for the wrong reasons. This argument was initially advanced by Madison and Kant, among others, and indeed can be traced all the way back to Thucydides. n259 Madison and John Jay both argued that the executive is more likely to be motivated by parochial self-interest and narrow perspectives, and thus more likely to enter into armed conflict than the legislature. n260 Madison further argued that there ought to be a separation between those who are charged with the conduct of war, as the President is as the Commander in Chief, and those who have the authority to decide on the commencement of war. n261 But the argument becomes more compelling when unpacked and explained in a little more detail, with the support of more modern theory. We need to explore the question of how exactly the legislative involvement improves decision making or [\*681] engages the causes of war in a manner that would reduce the incidence of war. It is helpful to begin by recalling the functions of legislatures. n262 In addition to passing legislation, the legislature in virtually all liberal democracies, whether parliamentary or presidential in structure, performs the core functions of representation, oversight, and control over government expenditure. n263 Representation and oversight in particular are important to the argued benefit of legislative involvement in the decision to use force. Both functions are tied to the core notions of democratic accountability and to deliberative democracy, which overlap in important ways. Democratic accountability is understood to include the idea that the people who are likely to be impacted by decisions ought to be able to participate in the decision making. Participation in this sense means not only having some expectation that the collective will of constituents will be taken into consideration in the decision-making process, but that the public debate and deliberation that is part of the parliamentary process of decision making will also serve the vital function of informing constituents and affording them some sense of access to the decision-making process. n264 Obviously, this process of debate and information exchange is also at the heart of ideas of deliberative democracy. The perspective here, though, is not so much on the importance of making the process accountable to and representative of the people, but on the extent to which the very process of deliberation among the representatives of disparate stake-holders and interests will result in the generation of sounder judgments. The argument is that the process results in better decisions due to the attenuation of extreme positions, the canvassing of a wider range of perspectives and sources of information, and the vigorous public interrogation of reasons [\*682] and motives underlying proposals. n265 More specifically, theories of deliberative democracy hold that the deliberative process, of which the parliamentary debate and decision-making process is a key feature, actually involves the transformation of preferences through the consideration of the justifications offered by various perspectives, rather than merely serving as a means by which society can aggregate preferences. n266 The oversight function of legislatures also feeds into both these aspects of democracy, in that the employment of specialized committees to engage in public inquiries into policy choices or proposed courses of action, provides a deeper level of deliberation that ensures a more thorough interrogation of policy justifications and the underlying information upon which policy proposals are based. Senate committee hearings during the Vietnam War illustrate how such oversight can reveal important information underlying policy debates, which in turn can influence public opinion and better inform the policy preferences of the representatives of the people. In 1967, the Senate Armed Services Committee held hearings on the escalation of the strategic bombing of North Vietnam. After the representatives of the Joint Chiefs, and in particular the Chief of the Air Force, had testified before the committee on the necessity of the continued strategic bombing, Secretary of Defense Robert S. McNamara stunned the committee, the government, and the public by testifying that the bombing was entirely ineffective. n267 The performance of these functions of the legislature, to the extent that they are permitted or required to operate in the decision-making process on the use of force, engage the domestic causes of war in important ways. The fuller realization of the representative and oversight functions--serving as they do to both incorporate the will of the broader population and to arguably contribute to the arrival at sounder judgments through the deliberative process--would result in those structural aspects of democratic states that comprise the Image II factors most related to the causes of the "democratic [\*683] peace," being brought to bear more directly on the decision-making process. In other words, the structure would thus more perfectly reflect the theoretical ideal that is part of the structural explanations of the democratic peace. n268 The institutional structure of the decision-making process created by the Model's separation of powers element would also affect the political costs of going to war in a manner that would further engage the Image II causes of war. Absent an overwhelming or obvious threat, the procedural requirements to obtain the support of the majority of the legislature would impose significant political costs upon the executive. n269 The structure would effectively create a sliding scale, in the sense that the greater the threat or the more obvious the case for war--such as the use of force in self-defense against an ongoing armed attack--the lower the costs would be in obtaining legislative approval. Conversely, the more tenuous the case for engaging in armed conflict, the more [\*684] politically costly it would be to win over the majority of the legislature for support. This is precisely the kind of structural characteristic that reduces the Image II causes of war. The second element of the Model would also engage the Image I causes of war, which include particular psychological traits that are common in many executive officers, systemic problems of misperception among decision makers, and the irrational behavior of small-group decision making reflected in "groupthink" and the "bureaucratic politics model" of decision making. n270 The risks that such tendencies could lead to irrational or suboptimal decisions to use armed force would be reduced, in the case of each of these particular phenomenon, by spreading the decision-making process more widely through the inclusion of the legislative body. The requirement to obtain legislative approval, bringing to bear the core functions of deliberative democracy on the decision-making process, such that a wider set of perspectives and criteria are brought to the process, as well as a more public interrogation of reasons and rationales, would significantly reduce the potential for these potential features of government decision making to manifest themselves in the form of unsound or dangerous decisions regarding the use of force. n271

#### “Presidential credibility” is a garbage term – summoned to justify rash decision-making – coherent military and diplomatic commitments are the only internal to effective foreign policy

Larison, 9/10 (Daniel, PhD in history from the University of Chicago, “Credibility and Reputation”, The American Conservative, 2013, http://www.theamericanconservative.com/larison/credibility-and-reputation/?utm\_source=rss&utm\_medium=rss&utm\_campaign=credibility-and-reputation)

Like Noah Millman, I was not persuaded by Ross Douthat’s column on the possible consequences of a Congressional no vote on Syria. Douthat writes: But it’s important to recognize just how unprecedented such a vote would be, and how far the ripples might ultimately spread. It wouldn’t just be a normal political rebuke of President Obama. It would be a remarkable institutional rebuke of his presidency, with unknowable consequences for the credibility of American foreign policy, not only in Syria but around the world. Presidential credibility is an intangible thing, and the term has been abused over the years by overeager hawks and cult-of-the-presidency devotees. But the global system really does depend on other nations’ confidence that the United States means what it says — that the promises the White House and the State Department make are binding, that our military commitments aren’t just so much bluster, and that when the president speaks on foreign policy he has the power to live up to his words. It’s true that we can’t know for certain what the consequences of a no vote would be, but we can be reasonably sure that it won’t include the parade of horribles that advocates for intervention have been describing in the last three weeks. There is no reason to think that anyone will doubt U.S. security commitments elsewhere in the world, and it seems very far-fetched that refusing to attack Syria now will prompt other governments to start amassing or using chemical weapons. Authoritarian regimes that have resisted U.S. demands in the past will continue to do so for their own reasons, but it is implausible that they will determine their future behavior based on how the U.S. treats the Syrian government in this case. In short, the commitments that the U.S. has seriously made and kept for many years or decades are not in jeopardy, but the ability or at least the willingness of the president to commit the U.S. to military action through careless and ill-conceived rhetoric may be constrained. As Jim Manzi pointed out, this is a feature, not a bug. The problem with talking about credibility is that the discussion tends towards vagueness. When pressed to give examples of how lost credibility would be damaging to the U.S., the examples are almost always absurd and easily dismissed. The more specifically that we focus on individual issues, the more we realize that credibility (like “resolve” or “leadership”) is a term that is used with the greatest frequency when the merits of a specific policy proposal are lacking. When a policy doesn’t make sense to most people, advocates have to fall back on warnings about lost credibility. They do this not so much because they believe that U.S. credibility elsewhere is at stake, but because they want to obscure the flaws in the policy they are promoting. It’s worth recalling that most of the real damage done to America’s reputation and its ability to conduct an effective foreign policy came from policy decisions that committed the U.S. to take action in several ways that trampled on international law and imposed enormous fiscal and human costs on the U.S. and the countries affected by those decisions. Whether it is torturing detainees, holding people in indefinite detention, or launching illegal wars, we have seen the kinds of behavior from the U.S. that actually undermines relationships with other countries and destroys America’s reputation even in allied countries, and even after doing all these destructive things U.S. foreign policy was not “~~crippled~~.” It is inconceivable that refusing to attack another country would cause the U.S. very much grief at all. As for Obama, he will suffer politically from a no vote, but it is also possible that he will then be able to shut the door to any greater U.S. involvement in Syria for the rest of his time in office. If he does that, that would make the next three years much less risky and dangerous for the U.S. than they would be following a U.S. attack.

#### Only the plan solves – congressional approval generates clarity

Koh, 2006 (Harold Hongju, Dean and Gerald C. & Bernice Latrobe Smith Professor of International Law at the Yale Law School, The Most Dangerous Branch? Mayors, Governors, Presidents, and the Rule of Law: A Symposium on Executive Power, “Setting the World Right”, Yale Law Journal, 115 Yale L.J. 2350, Lexis)

Remarkably, the authors suggest that recent setbacks in the Iraq War support their case, by disproving a positive correlation "between ex ante statutory authorization and American success" on the battlefield. n106 In Iraq, they claim, prior congressional deliberation about entering a war failed to produce a sense of public buy-in and lasting support for the war effort. Nor did the "inclusion of Congress, ex ante, in the decision to use force ... lead to any greater accuracy in decision-making," they claim, because "Congress brought no independent collection or analysis of information to bear" on the decision. n107 Nzelibe and Yoo acknowledge that Congress's "decision to authorize the use of force against Iraq [was based on] on the intelligence and analysis presented by the Bush Administration," which falsely, it turned out, reported the existence of weapons of mass destruction in Iraq. n108 Thus, Iraq is an exceedingly poor example to support their claim that the executive can better gather accurate information than Congress because it was not Congress's intelligence-gathering process, but the executive's own National Intelligence Estimate, that proved fatally flawed. To cite the latest Iraq War as a reason to dispense with congressional participation in warmaking decisions would reward the executive for secrecy or presentation of false or misleading information and relieve the executive from any obligation to subject its war justifications and plans to rigorous public scrutiny. Nzelibe and Yoo also argue that by acting as a natural brake on going to war, congressional participation might also cause "errors of omission," namely, wars we should rationally have fought but did not. n109 But again, their claim that a President can more rationally choose to engage in war assumes that the executive branch is better able than Congress to weigh the likely costs and benefits of going to war. In fact, Iraq provides a devastating counterexample. [\*2377] As one recent account has made clear, the current Iraq occupation "was made possible only through the [executive's] intellectual acrobatics of simultaneously "worst-casing' the threat posed by Iraq, even while "best-casing' the subsequent cost and difficulty of occupying the country." n110 In January 2003, for example, Defense Secretary Donald Rumsfeld projected the cost of waging the war as "a number that's something under $ 50 billion"; only three years later, Nobel Prize-winning economist Joseph Stiglitz projected the likely actual cost to be between $ 1 and 2 trillion.

#### Presidents have incentives to follow restrictions – normative and rational – no reason he would preemptively attack post plan

Pildes, 2012 (Richard, Sudler Family Professor of Constitutional Law at NYU School of Law, “Book Review: Law and the President”, Harvard Law Review, 125 Harv. L. Rev. 1381, Lexis)

For these reasons, I want to move beyond empirical issues and engage Posner and Vermeule on their own terms, and at a deeper, more theoretical, and general level. Posner and Vermeule see presidents as Holmesians, not Hartians. n69 Yet even if we enter their purely consequentialist world, in which presidents follow the law not out of any normative obligation or the more specific duty to faithfully execute the laws but only when the cost-benefit metric of compliance is more favorable than that of noncompliance, powerful reasons suggest that presidents will comply with law far more often than Posner and Vermeule imply. And analysis of those reasons might also point us to understanding better the contexts in which presidents are less likely to comply (either by invoking disingenuous or wholly unpersuasive legal interpretations or by defying the law outright). The Posner and Vermeule approach is characteristic of a general approach to assessing public institutions and the behavior of judges, legislators, presidents, and other public officials that has emerged recently within legal scholarship. Under the influence of rational-choice theory and empirical social science from other disciplines, such as political science and economics, some public law scholarship has shifted to trying to predict and understand the behavior of public officials wholly in terms of the material incentives to which they are posited to respond. These incentives include the power of effective sanctions other actors can impose on public officials who deviate from those actors' preferred positions. In this general rational-choice approach, considerations of morality or duty internal to the legal system do not motivate public actors. Indeed, in the case of Posner and Vermeule's book, that is more the working assumption of the approach than a fact that the theories actually prove. Public officials do not follow the law out of any felt normative sense of official or moral obligation. In what they view as hard-headed realism, scholars like Posner and Vermeule believe a more external perspective is required to understand presidential behavior. All that matters, from this vantage point, are the consequences that will or will not flow from compliance or defiance and manipulation of the law. If other actors, including Congress, the [\*1405] courts, or "the public" (whatever that might mean, precisely) will accept an action, the President will be able to do it; if not, his credibility and power will be undermined. It is that externally oriented cost-benefit calculation - not the law and not any internal sense of obligation to obey the law - that determines how presidents act in fact. Thus, "politics," not "law," determines how much discretion presidents actually have. This approach to presidential power finds its analog in the way a number of constitutional law scholars have come to portray the behavior of the Supreme Court. These scholars, such as Professors Michael Klarman, n70 Barry Friedman, n71 Jack Balkin, n72 and others, have asserted various versions of what I call the "majoritarian thesis" n73: the claim that Court decisions are constrained to reflect the policy preferences of national political majorities (or national political elite majorities), rather than the outcomes that good-faith internal elaboration of legal doctrine would compel based on normative considerations about appropriate methods of legal reasoning and interpretation. In some versions of the majoritarian thesis, these potential external sanctions impose outer boundaries on the degrees of freedom the Court has; within those boundaries, the Court remains free to act on its own considerations, including perhaps purely legal ones as viewed from an internal perspective. In other versions, the Court is cast as almost mirroring the preferences of national political majorities. Here, too, the behavior of the Court is seen as based less on internal, legal considerations and more on the anticipated external reactions to decisions. At an even broader theoretical level, Professor Daryl Levinson has employed the same kind of purely consequentialist framework to analyze what he calls the "puzzle" of the stability and effectiveness in general of constitutional law. n74 Constitutional law decisions often frustrate [\*1406] the preferences of political majorities. As Levinson puts it, the question of why those majorities do or should ever abide by such decisions is much like the question of why presidents do or should abide by law. For Levinson, as for Posner and Vermeule, legal compliance, to the extent that it occurs, cannot be explained by more traditional accounts of the normative force of law or by the sense that courts are politically legitimate institutions whose authority ought to be accepted for that reason. Instead, the explanation must lie in considerations external to the legal system, such as the material incentives other actors have to obey, or ignore, Court decisions. Levinson then catalogues an array of material incentives political majorities confront in deciding whether to follow Court decisions whose outcomes they dislike; the resulting cost-benefit calculations end up making compliance with Court decisions usually the "rational" course of action even for disappointed political majorities (at least in well-functioning constitutional systems). n75 Thus, the rational-choice and normative views end up converging in practice. And presumably, most actors do not actually run through these consequentialist calculations in deciding whether to obey particular Court decisions. Instead, these calculations lie deep beneath the surface of much larger systems of education, socialization, public discourse, and the like; most individuals, including public officials, comply with Court decisions unreflectively, because it is the "right" thing to do. But the rational-choice framework leaves open the possibility that, at any given moment, the actors the Court's decision limits - the President, Congress, state legislatures, or others - could mobilize the underlying cost-benefit calculations that otherwise lie latent and conclude that, this time around, refusal to abide by the law is the more "rational" course. But as Levinson's work helps to show, even on its own terms, Posner and Vermeule's approach offers an incomplete account of the role of law. Levinson's work, for example, is devoted to showing why constitutional law will be followed, even by disappointed political majorities, for purely instrumental reasons, even if those majorities do not experience any internal sense of duty to obey. He identifies at least six rational-choice mechanisms that will lead rational actors to adhere to constitutional law decisions of the Supreme Court: coordination, reputation, repeat-play, reciprocity, asset-specific investment, and positive political feedback mechanisms. n76 No obvious reason exists to explain why all or some of these mechanisms would fail to lead presidents similarly to calculate that compliance with the law is usually important to [\*1407] a range of important presidential objectives. At the very least, for example, the executive branch is an enormous organization, and for internal organizational efficacy, as well as effective cooperation with other parts of the government, law serves an essential coordination function that presidents and their advisors typically have an interest in respecting. There is a reason executive branch departments are staffed with hundreds of lawyers: while Posner and Vermeule might cynically speculate that the reason is to figure out how to circumvent the law artfully, the truth, surely, is that law enables these institutions to function effectively, both internally and in conjunction with other institutions, and that lawyers are there to facilitate that role. In contrast to Posner and Vermeule, who argue that law does not constrain, and who then search for substitute constraints, scholars like Levinson establish that rational-choice theory helps explain why law does constrain. Indeed, as Posner and Vermeule surely know, there is a significant literature within the rational-choice framework that explains why powerful political actors would agree to accept and sustain legal constraints on their power, including the institution of judicial review. n77 That Posner and Vermeule miss the role of legal compliance as a powerful signal, perhaps the most powerful signal, in maintaining a President's critical credibility as a well-motivated user of discretionary power is all the more surprising in light of the central role executive self-binding constraints play in their theory. After asserting that "one of the greatest constraints on [presidential] aggrandizement" is "the president's own interest in maintaining his credibility" (p. 133), they define their project as seeking to discover the "social-scientific microfoundations" (p. 123) of presidential credibility: the ways in which presidents establish and maintain credibility. One of the most crucial and effective mechanisms, in their view, is executive self-binding, "whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors" (p. 137). As they also put it, "a well-motivated president can distinguish himself from an ill-motivated president by binding himself to a policy position that an ill-motivated president would reject" (p. 135). By complying with these constraints, presidents signal their good faith and accrue more trust to take further action. Most importantly from within Posner and Vermeule's theory, these constraints, many self-generated through executive self-binding, substitute for the constraints of law. Law does not, or cannot, or should not constrain presidents, in their view, but rational-actor presidents recognize that [\*1408] complying with constraints is in their own self-interest; presidents therefore substitute or accept other constraints. Thus, Posner and Vermeule recognize the importance of "enabling constraints" n78 in effective mobilization and maintenance of political power; that is, they recognize that what appear to be short-term constraints on the immediate preferences of actors like presidents might actually enable long-term marshaling of effective presidential power. Yet they somehow miss that law, too, can work as an enabling constraint; when it comes to law, Posner and Vermeule seem to see nothing but constraint. Indeed, this failing runs even deeper. For if presidents must signal submission to various constraints to maintain and enhance their credibility - as Posner and Vermeule insist they must - Posner and Vermeule miss the fact that the single most powerful signal of that willingness to be constrained, particularly in American political culture, is probably the President's willingness to comply with law. In theoretical terms, then, Posner and Vermeule emerge as inconsistent or incomplete consequentialists. Even if law does not bind presidents purely for normative reasons, presidents will have powerful incentives to comply with law - even more powerful than the incentives Posner and Vermeule rightly recognize presidents will have to comply with other constraints on their otherwise naked power. To the extent that Posner and Vermeule mean to acknowledge this point but argue that it means presidents are not "really" complying with the law and are only bowing to these other incentives, they are drawing a semantic distinction that seems of limited pragmatic significance, as the next Part shows.

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### Circumvention

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It is that externally oriented cost-benefit calculation - not the law and not any internal sense of obligation to obey the law - that determines how presidents act in fact. Thus, "politics," not "law," determines how much discretion presidents actually have. This approach to presidential power finds its analog in the way a number of constitutional law scholars have come to portray the behavior of the Supreme Court. These scholars, such as Professors Michael Klarman, n70 Barry Friedman, n71 Jack Balkin, n72 and others, have asserted various versions of what I call the "majoritarian thesis" n73: the claim that Court decisions are constrained to reflect the policy preferences of national political majorities (or national political elite majorities), rather than the outcomes that good-faith internal elaboration of legal doctrine would compel based on normative considerations about appropriate methods of legal reasoning and interpretation. 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#### Restrictions work – political costs backed up by legal changes ensure effectiveness

Huq, 2012 (Aziz, Assistant Professor of Law at the University of Chicago Law School, “Binding the Executive (by Law or by Politics),” Public Law and Legal Theory Working Paper No. 400, August, http://www.law.uchicago.edu/files/file/400-ah-binding.pdf)

Paulson’s genuflection and Obama’s reticence, I will contend here, are symptomatic of our political system’s operation rather than being aberrational. It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme, legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies.20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders.21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short-circuit negotiations with unilateral action.22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23 That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive” in more subtle ways (p 5). The conventional narrative of executive dominance, in other words, is at best incomplete and demands supplementing. This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration. Notwithstanding this emerging space for analysis, there is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “mechanism question.” Future studies of the executive branch will ignore its important and trenchant analysis at their peril.24 Following PV’s lead, I focus on the descriptive, positive question of how the executive is constrained. I do speak briefly and in concluding to normative matters. But first and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted. Articulating and answering the question “What binds the executive?”, The Executive Unbound draws a sharp line between legal and political constraints on discretion—a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand. While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/politics dichotomy.” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority.25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### Restrictions solve – raises political costs

Ogul, 1996 (Morris, Master and Doctorate in Political Science from the University of Michigan, “The Politics of the War Powers”, Review: Louis Fisher, Presidential War Powers; Reviews in American History, 24.3, JSTOR)

In part, these two positions can be reconciled. Recognition that presidents under specific political circumstances will in essence act unilaterally does not mean sustained tyranny is upon us. If congressional majorities and large segments of the public respond vigorously and negatively to specific presidential actions, political pressures will minimize the duration and impact of such actions. Conversely if Congress and large segments of the public go along with the president, formal legal restrictions will have few decisive effects.¶ Over twenty years of experience with the War Powers Resolution (WPR) illuminates the problem. Presidents have usually claimed that they have consulted with Congress as stipulated in the WPR before committing troops to hostile zones. Few members of Congress would read the evidence that way. Presidents have notified Congress about what they were about to do while asserting that they have consulted Congress. What presidents have actually done does not conform with any normal meaning of consultation. Similarly, most presidential decisions to send troops into environments where combat is likely were reported, as required by the WPR , to the Congress. But presidents have studiously avoided reporting in the manner prescribed by the WPR, one that triggers its sixty-day cut-off provisions. [End Page 527]¶ This behavior by presidents surely leaves some critical decisions in a legal limbo. That, for good or evil, is where they actually are. What we can do is recognize that fact and act accordingly. Politics has and will govern the resolution of this issue. Whether this is desirable in principle can be debated. The realities of politics, however, have and are likely to prevail.¶ Legal restrictions sometimes cannot withstand political tides. Constitutional, limited government is not intended to work that way but it does in reality. There are few effective legal safeguards against intense and enduring political tides. Fortunately in U.S. history, such episodes have been few and relatively fleeting. Legal restrictions such as those specified in the War Powers Resolution have little direct, conclusive impact. They do, however, help raise the political costs of unilateral executive actions. Therein lies their primary value. Will presidents fully and freely involve Congress in decision making to send U.S. armed forces into potential or actual combat? Despite the force of Louis Fisher's account of the constitutional history of the war powers, the answer is probably not. Will presidents carefully calculate the political costs of such initiatives? They usually will. Legislation designed to raise political costs may be a useful way to promote this possibility, but Fisher places far too much weight on "solid statutory checks" (p. 205).

### War K

#### We can know what war is “a state of armed conflict between different nations or states or different groups within a nation or state” – plan solves that

#### No impact to not knowing what war is

#### We should get to weigh the aff vs a competitive alternative – this is best

#### A Predictability – the rez says USFG so we should predict that’s what the debate is centered around – anything else moots the 1AC and makes fair debate impossible

#### B Education – deliberation about policy proposals is necessary to engage those policies

#### C Plan isn’t tied to larger social and political discourse – we only have to defend its enactment in a vacuum

#### prioritizing representations fails – it prevents real world change by ignoring how material structures and agency work to create policies

Tuathail, ’96[Gearoid, Department of Georgraphy at Virginia Polytechnic Institute, Political Geography, 15(6-7), p. 664, science direct]

While theoretical debates at academic conferences are important to academics, the discourse and concerns of foreign-policy decision- makers are quite different, so different that they constitute a distinctive problem- solving, theory-averse, policy-making subculture. There is a danger that academics assume that the discourses they engage are more significant in the practice of foreign policy and the exercise of power than they really are. This is not, however, to minimize the obvious importance of academia as a general institutional structure among many that sustain certain epistemic communities in particular states. In general, I do not disagree with Dalby’s fourth point about politics and discourse except to note that his statement-‘Precisely because reality could be represented in particular ways political decisions could be taken, troops and material moved and war fought’-evades the important question of agency that I noted in my review essay. The assumption that it is representations that make action possible is inadequate by itself. Political, military and economic structures, institutions, discursive networks and leadership are all crucial in explaining social action and should be theorized together with representational practices. Both here and earlier, Dalby’s reasoning inclines towards a form of idealism. In response to Dalby’s fifth point (with its three subpoints), it is worth noting, first, that his book is about the CPD, not the Reagan administration. He analyzes certain CPD discourses, root the geographical reasoning practices of the Reagan administration nor its public-policy reasoning on national security. Dalby’s book is narrowly textual; the general contextuality of the Reagan administration is not dealt with. Second, let me simply note that I find that the distinction between critical theorists and post- structuralists is a little too rigidly and heroically drawn by Dalby and others. Third, Dalby’s interpretation of the reconceptualization of national security in Moscow as heavily influenced by dissident peace researchers in Europe is highly idealist, an interpretation that ignores the structural and ideological crises facing the Soviet elite at that time. Gorbachev’s reforms and his new security discourse were also strongly self- interested, an ultimately futile attempt to save the Communist Party and a discredited regime of power from disintegration. The issues raised by Simon Dalby in his comment are important ones for all those interested in the practice of critical geopolitics. While I agree with Dalby that questions of discourse are extremely important ones for political geographers to engage, there is a danger of fetishizing this concern with discourse so that we neglect the institutional and the sociological, the materialist and the cultural, the political and the geographical contexts within which particular discursive strategies become significant. Critical geopolitics, in other words, should not be a prisoner of the sweeping ahistorical cant that sometimes accompanies ‘poststructuralism nor convenient reading strategies like the identity politics narrative; it needs to always be open to the patterned mess that is human history.

#### Perm do the plan and problematize the fundamental assumptions of the 1AC

#### Case outweighs – They haven’t denied any specific truth claims of the 1AC – Unchecked executive authority damages credibility and makes sustaining multilateral institutions impossible – also Presidents are prone to miscalculation – ensures conflicts escalate – err aff

#### Util is best

David Cummiskey, Associate Professor of Philosophy @ Bates College & a Ph.D. from UM, 1996, Kantian Consequentialism, Pg. 145-146

In the next section, I will defend this interpretation of the duty of beneficence. For the sake of argument, however, let us first simply assume that beneficence does not require significant self-sacrifice and see what follows. Although Kant is unclear on this point, we will assume that significant self-sacrifices are supererogatory. Thus, if I must harm one in order to save many, the individual whom I will harm by my action is not morally required to affirm the action. On the other hand, I have a duty to do all that I can for those in need. As a consequence **I am faced with a dilemma: If I act, I harm a person in a way that a rational being need not consent to; if I fail to act, then I do not do my duty to those in need and thereby fail to promote an objective end.** Faced with such a choice, which horn of the dilemma is more consistent with the formula of the end-in-itself? **We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract “social entity.” It is not a question of some persons having to bear the cost for some elusive “overall social good.”** Instead, **the question is whether some persons must bear the inescapable cost for the sake of other persons.** Robert Nozick, for example, argues that “**to use a person in this way does not sufficiently respect and take account of the fact that he [or she] is a separate person, that** ~~his~~ **is the only life he [or she] has.” But why is this not equally true of all those whom we do not save through our failure to act? By emphasizing solely the one who must bear the cost if we act, we fail to sufficiently respect and take account of the many other separate persons, each with only one life, who will bear the cost of our inaction.** In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? **A morally good agent recognizes that the basis of all particular duties is the principle that “rational nature exists as an end in itself.”** Rational nature as such is the supreme objective end of all conduct. **If one truly believes that all** rational beings **have an equal value then the rational solution to such a dilemma involves maximally promoting the lives and liberties of as many** rational beings **as possible**. **In order to avoid this** conclusion, **the non-consequentialist** Kantian **needs to justify agent-centered constraints.** As we saw in chapter 1, however, even most Kantian **deontologists recognize that agent-centered constraints require a non-value based rationale.** But we have seen that Kant’s normative theory is based on an unconditionally valuable end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? If the moral law is based on the value of rational beings and their ends, then what is the rationale for prohibiting a moral agent from maximally promoting these two tiers of value? **If I sacrifice some for the sake of others, I do not use them arbitrarily, and I do not deny the unconditional value of rational beings. Persons may have “dignity,** that is, **an unconditional and incomparable worth” that transcends any market value, but persons also have a fundamental equality that dictates that some must sometimes give way for the sake of others. The concept of the end-in-itself does not support the view that we may never force another to bear some cost in order to benefit others**. If on focuses on the equal value of all rational beings, then **equal consideration suggests that one may have to sacrifice some to save many**.

#### Prior questions fail and paralyze politics

Owen 2 [David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 2002 p. 655-7]

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

### Congress

#### Deliberation is critical to resolve

Zelizer, 2011 (Julian, Professor of History and Public Affairs at Princeton University, “War powers belong to Congress and the president”, CNN, 6/27, http://www.cnn.com/2011/OPINION/06/27/zelizer.war.powers/index.html)

The first problem is that the U.S. now tends to go to war without having a substantive debate about the human and financial costs that the operation could entail. Asking for a declaration of war, and thus making Congress take responsibility for the decision, had required presidents to enter into a heated debate about the rationale behind the mission, the potential for large-scale casualties and how much money would be spent. When presidents send troops into conflict without asking Congress for approval, it has been much easier for presidents to elude these realities. President Lyndon Johnson famously increased the troop levels in Vietnam without the public fully realizing what was happening until after it was too late. Although Johnson promised Democrats when they debated the Gulf of Tonkin Resolution in 1964 that they would only have a limited deployment and he would ask them again if the mission increased, he never did. He used the broad authority granted to him to vastly expand the operations during his presidency. By the end of his time in office, hundreds of thousands of troops were fighting a hopeless war in the jungles of Vietnam. Johnson also continued to mask the budgetary cost, realizing the opposition that would emerge if legislators knew how much the nation would spend. When the costs became clear, Johnson was forced to request a tax increase from Congress in 1967, a request which greatly undermined his support.

#### Plan solves interbranch conflict

Entin, 2012 (Jonathan, Associate Dean for Academic Affairs (School of Law), David L. Brennan Professor of Law, and Professor of Political Science at Case Western Reserve University; “War Powers, Foreign Affairs, and the Courts: Some Institutional Considerations”, Case Western Reserve Journal of International Law, Vol. 45, Issues 1-2, Fall, http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.21.Article.Entin.pdf)

Whatever the merits of the decisions discussed in the previous section, those rulings should give pause to those who might rely on the judiciary as a check on what they regard as executive overreaching. When combined with the procedural and jurisdictional obstacles discussed in Part I, a more general lesson emerges: the judiciary cannot resolve all the questions that might arise in connection with war powers and foreign affairs. Nonetheless, the substantive and procedural limitations of judicial review provide an opportunity for greater civic and political engagement in decisions that can have profound consequences for our nation and the world. If the courts cannot resolve these matters, questions of war and diplomacy, it should come as no surprise that they are getting worked out largely through political accommodation and negotiation. These accommodations and negotiations necessarily reflect the differing constitutional views of the legislative and executive branches as well as of the persons and groups that engage on these issues. Although many lament the quality of current political discourse, excessive reliance on the judicial process has undesirable consequences. The Supreme Court has had difficulty rendering consistent or principled decisions about legislative-executive relationships.110 Sometimes the Court has taken a formalistic approach that emphasizes the need to maintain clear lines between the branches.111 At other times, the Court has used a functional approach that emphasizes the importance of checks and balances to prevent the accumulation of excessive power in any particular branch.112 In other words, judicial review does not always provide clear answers to complex questions. The complexity of those questions is particularly evident in the military and diplomatic arenas. Reliance on the political process recognizes the uncertainties and contingencies involved in many of these matters.113 Moreover, interbranch negotiation rather than litigation recognizes that an effective government requires a degree of comity that is inconsistent with frequent reliance on the judiciary.114 Our system rests on a rich set of subtle understandings and an implicit sense of political limits.115 As a result, structural and institutional factors often dampen the inevitable conflicts that arise between Congress and the president. Excessive reliance on the judiciary tends to raise the stakes of conflict by clearly identifying winners and losers and by encouraging the assertion of extreme positions for short-term litigation advantage that might complicate the resolution of future disagreements.116 In addition, the litigation process takes time. Of course, the Pentagon Papers case was resolved in less than three weeks after the New York Times published its first article on the subject.117 Ordinarily, however, the judicial process proceeds at a much statelier pace. Consider another landmark case, albeit one that dealt with domestic issues. Cooper v. Aaron118 was decided approximately one year after President Eisenhower dispatched federal troops to enforce the desegregation of Little Rock Central High School in the face of massive resistance encouraged by Arkansas Governor Orval Faubus.119 Often, disputes over military and diplomatic matters are time-sensitive. Expedited judicial review might help, but events on the ground might well frustrate orderly judicial disposition. \* \* \* \* \* Let me close with some points of clarification. Although I am skeptical about the value of judicial review of disputes about war powers and foreign affairs, I do not advocate that they be treated as political questions and therefore outside the purview of the courts. I offer no doctrinal bright lines for determining which cases should be resolved on the merits through litigation. Nor, in advocating less reliance on lawsuits, do I exaggerate the quality of political discourse in the United States. But that is hardly a new concern. More than a century ago the legendary Chicago saloonkeeper, Mr. Dooley, observed that “politics ain’t beanbag.” 120 Some things never change. I end as I began. We cannot count on the legal process to resolve the debate about war powers and foreign affairs. Many potential lawsuits will founder on the shoals of jurisdiction and procedure. And for those who believe that the executive has accumulated excessive power in these fields, the judicial record of modesty and deference militates against relying on the courts to rein in the president. In short, most of the time we must leave issues of war and foreign affairs largely to our politicians.

#### Extinction

Linda S. Jamison, Deputy Director of Governmental Relations @ CSIS, Spring 1993, Executive-Legislative Relations after the Cold War, Washington Quarterly, v.16, n.2, p. 189

Indeed there are very few domestic issues that do not have strong international implications, and likewise there are numerous transnational issues in which all nations have a stake. Environmental degradation, the proliferation of weapons of mass destruction, population control, migration, international narcotics trafficking, the spread of AIDS, and the deterioration of the human condition in the less developed world are circumstances affecting all corners of the globe. Neither political isolation nor policy bifurcation is an option for the United States. Global circumstances have drastically changed with the end of the Cold War and the political and policy conditions that sustained bipartisan consensus are not applicable to the post-war era. The formulation of a new foreign policy must be grounded in broad-based principles that reflect domestic economic, political and social concerns while providing practical solutions to new situations. Toward a cooperative US Foreign Policy for the 1990s: If the federal government is to meet the new international policy challenges of the post-cold war era, institutional dissension caused by partisan competition and executive-legislative friction must give way to a new way of business. Policy flexibility must be the watchword of the 1990s in the foreign policy domain if the United States is to have any hope of securing its interests in the uncertain years ahead. One former policymaker, noting the historical tendency of the United States to make fixed “attachments,” has argued that a changing world dictates policy flexibility, where practical solutions can be developed on principles of broad-based policy objectives (Fulbright 1979). Flexibility, however, will not be possible without interbranch cooperation. The end of the Cold War and the new single-party control of the White House and Congress provide a unique opportunity to reestablish foreign policy cooperation. Reconfiguring post cold war objectives requires comprehension of the remarkable transformations in world affairs and demands an intense political dialogue that goes beyond the executive branch (Mann 1990, 28-29).

### T

#### We meet – the president can preemptively enter armed forces into hostilities w/o congressional approval – we prohibit that authority

#### War powers authority is derived from congressional statute – restrictions are increased via statutory or judicial limitation on the source

CURTIS A. BRADLEY, Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School, Harvard Journal of Law & Public Policy [Vol. 33 No. 1] 2010.

http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty\_scholarship

The scope of the President’s independent war powers is notoriously unclear, and courts are understandably reluctant to issue constitutional rulings that might deprive the federal government as a whole of the flexibility needed to respond to crises. As a result, courts often look for signs that Congress has either supported or opposed the President’s actions and rest their decisions on statutory grounds. This is essentially the approach outlined by Justice Jackson in his concurrence in Youngstown.¶ 1¶ For the most part, the Supreme Court has also followed this¶ approach in deciding executive power issues relating to the¶ war on terror. In Hamdi v. Rumsfeld, for example, Justice¶ O’Connor based her plurality decision, which allowed for military detention of a U.S. citizen captured in Afghanistan, on¶ Congress’s September 18, 2001, Authorization for Use of Military Force (AUMF).2¶ Similarly, in Hamdan v. Rumsfeld, the Court grounded its disallowance of the Bush Administration’s military commission system on what it found to be congressionally imposed restrictions.3 The Court’s decision in Boumediene v. Bush 4 might seem an aberration in this regard, but it is not. Although the Court in Boumediene did rely on the Constitution in holding that the detainees at Guantanamo have a right to seek habeas corpus review in U.S. courts, it did not impose any specific restrictions on the executive’s detention, treatment, or trial of the detain ees.5¶ In other words, Boumediene was more about preserving a role for the courts than about prohibiting the executive from exercising statutorily conferred authority.¶ Statutory authority was also a central issue in the much‐¶ discussed Al‐Marri case in the Fourth Circuit.6¶ Although the Su‐¶ preme Court vacated the Fourth Circuit’s decision as moot, the¶ decision still provides an instructive example. Al‐Marri involved¶ a Qatari citizen, Ali Saleh Kahlah al‐Marri, who came to the¶ United States on September 10, 2001, and was later arrested and¶ charged with various counts of fraud.7¶ Shortly before al‐Marri’s¶ trial, President Bush designated him an enemy combatant, and¶ he was moved to military custody.8¶ As justification for this ac‐¶ tion, the Bush Administration alleged that al‐Marri was an al¶ Qaeda sleeper agent who had come to the United States to await¶ instructions to carry outfurther attacks after September 11.9

#### This is the better topic – limits mechanisms to restricting statutes that grant authority which ensures predictable neg ground and solves limits better because their interp allows an infinite number of related limits on the president

#### Reasonability – we don’t make debate impossible – their interp is arbitrary and makes education impossible

### DA

#### Plan controls the Impact –

#### a. Power Projection – National Unity is key to effective power projection and war-fighting ability – only congressional approval ensures effectiveness – that’s Gallagher

#### b. Multilat – Credible congressional restrictions are necessary to ensure Leadership sustains liberal institutions that prevent conflict – Takes out the internal link to the DA – That’s the Shifter ev

#### Congress will tank military effectiveness

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

By the conclusion of the Clinton Administration, however, it appeared that something of a practical settlement between the political branches regarding this long-contested constitutional question had been reached. By that time, Presidents were in rough agreement that, whatever the Founding-era understandings might have been, extensive historical practice had established that the Commander in Chief was, [\*1057] to some not fully specified extent, "authorized to commit American forces in such a way as to seriously risk hostilities ... without prior congressional approval." n476 Some Presidents made even bolder claims; n477 but executive branch precedent and opinions from after 1951 generally indicated that any conflict of a scale directly comparable to Korea or Vietnam must be carried out with legislative approval. n478 Congress, for its part, seemed largely resigned to this executive branch approach to the initiation question, and has therefore recently focused its attention more on policing the duration and conduct of campaigns, rather than on challenging their legality at the outset. Meanwhile, the courts have not had much to say about the question of unilateral executive use of military force.

#### We Control Link UQ - Legislative constraints are inevitable – only question is whether approval takes place

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

In a companion Article, we described many of the structural forces responsible for this shift in the ground of debate. n2 Collectively, they strongly suggest that the prevailing paradigm of congressional abdication - developed at a time when bold claims of presidential authority to act without express legislative approval occasioned all the attention - no longer illuminates the main battle lines in constitutional struggles over the exercise of war powers. Among the most important of these forces is the peculiar nature of the war on terrorism. Its unusual entwinement with the home front, its heavy focus on preemptive action and intelligence collection, and its targeting of a diffuse, non-state enemy, all guarantee that presidential uses of force are likely to be conducted for years to come in a context that is thick with statutory restrictions. But even beyond the war on terrorism, the "lowest ebb" issue is likely to take on added significance, if only because of the increased willingness of Presidents to deploy force abroad. There is mounting evidence that the reduction in legislative participation at the front end of these conflicts is being counterbalanced to some extent by a legislative willingness to intervene at the back end if the campaign goes poorly or if the public begins to doubt certain of the President's decisions about how it should be prosecuted.

#### DA is Bunk – Larison ev says Credibility is thrown around to advocate for a flawed status quo – only a risk of our offense

#### The DA is structurally nonsensical – status quo decision-making is neither flexible nor quick – Plan access the best decision-making model

Streichler, 2008 (Stuart, Adjuct Faculty at Seattle University School of Law and Ph.D. from Johns Hopkins University; “Mad about Yoo, or Why Worry about the Next Unconstitutional War”, Journal of Law and Politics, 24 J. L. & Politics 93, Lexis)

When Yoo discusses the need for flexibility in the process for warmaking, he creates a false dilemma. He suggests that the president has discretionary power to start wars or that the president must secure prior authorization from Congress through a "fixed, legalistic process." n230 For Yoo, the latter would inevitably hamper the government's ability to respond to terrorist threats. n231 Yet even if Congress has the power to decide whether to go to war, the president retains substantial powers to respond quickly to defend the country. No lawmaker would insist on Congress deliberating while terrorists set off weapons of mass destruction in the United States. Americans who lived with the risk of nuclear attack during the Cold War accepted the president's authority to respond to the Soviet Union without waiting for the results of legislative debate. Additionally, Congress has demonstrated that it can move quickly to authorize the use of military force. Three days after September 11, the Senate voted 98-0 to authorize the president to use force in response to the attacks, n232 and the House approved the measure a few hours later (420-1). n233 Another four days passed before the president signed it. n234 The last time Congress declared war in response to an attack on the United States, it did not take lawmakers long to do so. The Senate (82-0) and the House (388-1) issued a declaration of war thirty-three minutes after President Franklin D. Roosevelt's "Day of Infamy" speech. n235 Furthermore, whatever their capacity for dynamic response, presidents do not always react to security threats with speed and energy. While Yoo cleverly aligns his position with flexibility, there is more to constructing an adaptive foreign policy than letting the president initiate military hostilities. Executive decisions on war that appear, in the short term, to reflect a flexible approach may limit policy options over the long run, constraining foreign policymakers and military planners. Yoo expresses no doubt that the president's capacity to make decisions in foreign affairs and defense - to "consider policy choices" and to "evaluate threats" - is "far superior" to Congress's. n236 That overstates the case. Despite the imperfections of the legislative process, it is hard to [\*124] reach such an unqualified conclusion. Seemingly for every example where executive decision-making works well, another can be cited exposing its deficiencies. President John F. Kennedy's management of the Cuban missile crisis, though not without its critics, is often cited as a classic model of decision-making in crisis. The same president's handling of the Bay of Pigs invasion has been roundly criticized. n237 As Yoo presents his argument on executive decision-making, it does not matter who occupies the office of the president. In fact, that can make a good deal of difference. With the presidency structured around one individual, the decision-making process is shaped by the chief executive's native abilities, judgment, and experience. n238 A whole range of personal qualities may affect the president's decision on whether to take the nation to war: how the president assesses risk (especially with the uncertain conditions that prevail in foreign affairs); whether he or she engages in wishful thinking; whether he or she is practical, flexible, and open-minded. n239 While every president consults with advisers, small group dynamics add another layer of difficulties in the executive decision-making process. Even talented White House staffers and independent-minded cabinet secretaries succumb to groupthink, as it has been called - the overt and subtle pressures driving group cohesiveness that can distort the decision-making process. n240 This effect can be pronounced in foreign policy, with stressful crises that often involve morally difficult choices. n241 Members of the president's team, not fully aware they are doing so, may overrate their own power or moral position, cut off the flow of information, downplay contrary views of outside experts, limit consideration of long-term consequences, underestimate the risks of a particular policy, or fail to develop contingency plans. n242 Once the group coalesces around a particular view, it becomes increasingly difficult for individual members to [\*125] press the group to reassess rejected alternatives. n243 The unique circumstances of working for the president can make matters worse. Members of the administration generally share the president's outlook, ideology, and policy preferences. Internal decision-making may get skewed because executive officials give advice based on what they think the president wants to hear. Even if the president's subordinates differ with the chief executive on particular questions, they can only go so far to challenge the president. n244 In short, there are more questions surrounding presidential decision-making on war than Yoo is willing to admit. Congress, with the president still involved, may be able to offset the structural disadvantages of a decision-making process taking place behind closed doors in the White House. While the executive branch tends to concentrate command authority in one person, power is dispersed on Capitol Hill. Not all members of Congress are equal, but no person has influence comparable to the president's power within the executive branch. In comparison with the select handful of advisers who have the most influence with the president, the number of elected legislators and their diverse ideologies, constituencies, and perspectives make them less susceptible to groupthink. Contrary to the president's decision-making process, insulated by executive privilege, the legislative process involves on-the-record votes and speeches by elected representatives and thus provides a forum for public deliberation. n245 To be sure, Congress is not an idealized debating society. Lawmakers have parochial concerns. They often bargain in private. Their public debates can be grounded in emotional appeals as much as reason. n246 Yet in his eagerness to rate the president far above Congress in deciding to go to war, Yoo overlooks the value in having a decision-making process conducted in relatively open view and the possibilities for lawmakers to engage in serious deliberations on vital questions of national security.

#### Quick decisions ensure miscalc – only the plan solves

Zelizer, 2011 (Julian, Professor of History and Public Affairs at Princeton University, “War powers belong to Congress and the president”, CNN, 6/27, http://www.cnn.com/2011/OPINION/06/27/zelizer.war.powers/index.html)

The second cost of presidents going to war rather than Congress doing so is that major mistakes result when decisions are made so quickly. When there is not an immediate national security risk involved, the slowness of the legislative process does offer an opportunity to force policymakers to prove their case before going to war. Speed is not always a virtue. In the case of Iraq, the president started the war based on the shoddiest of evidence about WMD. The result was an embarrassment for the nation, an operation that undermined U.S. credibility abroad. Even in military actions that have stronger justifications, there are downsides to speed. With President Obama and the surge in Afghanistan, there is considerable evidence that the administration went in without a clear strategy and without a clear objective. With Libya, there are major concerns about what the administration hopes to accomplish and whether we are supporting rebel forces that might be connected with terrorist networks intent on harming the U.S.

#### The DA is wrong – presidents can’t act quickly and congressional action solves

Pearlstein, 2009 (Deborah, Visiting Scholar and Lecturer in Public and International Affairs at the Woodrow Wilson School of Public & International Affairs at Princeton University; “Form and Function in the National Security Constitution”, Connecticut Law Review, 41 Conn. L. Rev. 1549, Lexis)

This brings us to the new functionalists' role effectiveness approach. For whatever one researcher (especially, the new functionalists would suggest, legal researchers) might find in the empirical literature informing the nature of security threats and emergency responses, the new functionalists' more forthright argument is that institutional competences make the executive better positioned to consider this information and make decisions accordingly. Indeed, in a linear comparison of institutional competences, the differences among the branches that flow from institutional structure are of course real. The judiciary, for example, can only act in the event of a case or controversy. The administrative agency and national security apparatus may put information, in the first instance, in the hands of the executive rather than Congress or the courts. Moreover, the new functionalists add, the judiciary lacks the expertise and the procedural and evidentiary resources to make good judgments in an emergency; judicial resources are too scarce to require individualized determinations as to many hundreds or thousands of detainees it is assumed, as a matter of raw effectiveness, it will be necessary to detain. And given its own resource constraints and motives, the executive is [\*1598] unlikely to exaggerate the danger posed by an individual, or detain too many people. n168 Accordingly, the new functionalists tend to favor a decision- making structure with loose (if any), emergency-driven congressional engagement and deferential (if any) judicial review. But such comparative competence accounts are misleading in several ways. They ignore the complexity of current government decision-making structures. The vast executive branch decision-making apparatus means decisions rarely come down to the speed possible with one man acting alone, and Congress and the courts have at their institutional disposal multiple means to enable the sharing of information among the branches. Such accounts also critically ignore the possibility of collective organizational capacity, a notion Justice Jackson's Youngstown concurrence seemed squarely to contemplate. n169 The executive acting alone may be better than the courts acting alone in some circumstances, but the executive plus the courts (or Congress) may be more effective than the executive alone. Perhaps most important, the new functionalist role effectiveness view ignores the structural reality that national security policy (indeed all government decision- making) is channeled through a set of existing organizations, each with its own highly elaborated set of professional norms and responsibilities, standard procedures and routines, identities and culture, all of which constrain and guide behavior-often in ways that centrally affect the organization's ability to perform its functions. Considering how such pathologies affect decision-making, one may find a far more sophisticated-and more meaningful-set of comparisons between decision-making structures than asking, for example, whether the executive can make decisions faster than courts. The next section explores a role effectiveness approach that could take this reality into account.

#### Plan key to effective deterrence – anything else collapses support and emboldens aggression

Newton, 2012 (Michael, Professor of the Practice of Law at Vanderbilt University Law School, “Inadvertent Implications of the War Powers Resolution”, Case Western Journal of International Law, Vol 45, Fall, http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.10.Article.Newton.pdf)

The corollary to this modern reality, and the second of three inadvertent implications of the Resolution, is that our enemies now focus on American political will as the Achilles heel of our vast capabilities. Prior to the War Powers Resolution, President Eisenhower understood that it was necessary to “seek the cooperation of the Congress. Only with that can we give the reassurance needed to deter aggression.”62 President Clinton understood the importance of clear communication with the Congress and the American people in order to sustain the political legitimacy that is a vital element of modern military operations. Justifying his bombing of targets in Sudan, he argued that the “risks from inaction, to America and the world, would be far greater than action, for that would embolden our enemies, leaving their ability and their willingness to strike us intact.” 63 In his letter to Congress “consistent with the War Powers Resolution,” the president reported that the strikes “were a necessary and proportionate response to the imminent threat of further terrorist attacks against U.S. personnel and facilities” and “were intended to prevent and deter additional attacks by a clearly identified terrorist threat.” 64 The following day, in a radio address to the nation, the president explained his decision to take military action, stating, “Our goals were to disrupt bin Laden’s terrorist network and destroy elements of its infrastructure in Afghanistan and Sudan. And our goal was to destroy, in Sudan, the factory with which bin Laden’s network is associated, which was producing an ingredient essential for nerve gas.” 65 Citing “compelling evidence that the bin Laden network was poised to strike at us again” and was seeking to acquire chemical weapons, the president declared that we simply could not ignore the threat posed, and hence ordered the strikes.66 Similarly, President Clinton understood that intervention in Bosnia could not be successful absent some national consensus, which had been slow to form during the long Bosnian civil war.67 Secretary of State George Schultz provided perhaps the most poignant and pointed example of this truism in his testimony to Congress regarding the deployment of US Marines into Lebanon to separate the warring factions in 1982. On September 21, 1983, he testified before the Senate Foreign Relations Committee and provided a chilling premonition of the bombing that would come only one month later and kill 241 Americans, which was the bloodiest day in the Marine Corps since the battle of Iwo Jima.68 Seeking to bolster legislative support and to better explain the strategic objectives, he explained that: It is not the mission of our marines or of the [Multinational Force in Lebanon] as a whole to maintain the military balance in Lebanon by themselves. Nevertheless, their presence remains one crucial pillar of the structure of stability. They are an important deterrent, a symbol of the international backing behind the legitimate Government of Lebanon, and an important weight in the scales. To remove the marines would put both the Government and what we are trying to achieve in jeopardy. This is why our domestic controversy over the war powers has been so disturbing. Uncertainty about the American commitment can only weaken our effectiveness. Doubts about our staying power can only cause political aggressors to discount our presence or to intensify their attacks in hopes of hastening our departure. § Marked 17:24 § An accommodation between the President and Congress to resolve this dispute will help dispel those doubts about our staying power and strengthen our political hand.69

## 1AR

### “authority” – discretion

#### Executive acts fall under “duty” – discretionary power is “authority”

#### Spector, 90 (Arthur, US Bankruptcy Judge, In re Premo, UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION, 116 B.R. 515; 1990 Bankr. LEXIS 1471; Bankr. L. Rep. (CCH) P73,555; 90-2 U.S. Tax Cas. (CCH) P50,396;71A A.F.T.R.2d (RIA) 4677, lexis)

#### The word "authority", on the other hand, is defined as the "power to influence or command thought, opinion, or behavior." Id. These definitions suggest that the terms "duty" and "authority" are not synonymous. The notion of a duty implies an affirmative obligation to perform specific acts, whereas "authority" is by its nature discretionary. A high-level corporate officer, for example, may have the authority to "command" that any number of actions be taken, but that does not mean that he or she is obliged or required to do so.

#### Restrictions on war powers authority limit executive discretion\*\*\*

David Jenkins, Assistant Professor of Law, University of Copenhagen (member of the Centre for ¶ European Constitutionalization, in collaboration with the Centre for Advanced Security ¶ Theory, 2010.¶ “Judicial Review Under a British ¶ War Powers Act,” http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/jenkins-cr\_v2.pdf

The United States provides one of the best and most obvious ¶ examples of a departure from the British tradition.14 The U.S. ¶ Constitution of 1787, enforceable in the courts by judicial review, formally divides the war powers between the legislative and executive ¶ branches.15 This situation is distinct from the parliamentary system ¶ in Britain, where Crown ministers are accountable (in theory) to a ¶ sovereign Parliament (and the politically ascendant House of ¶ Commons) while simultaneously wielding a traditionally powerful, ¶ monarchical prerogative power over war.16 While the separation of ¶ powers doctrine exists in the United Kingdom as a matter of abstract ¶ constitutional principle,17 the convention of ministerial responsibility ¶ arguably tends to reduce the risk of serious, open confrontations ¶ between the Government and Parliament.18 By contrast, the U.S. Constitution’s sharp separation of the legislative and executive ¶ branches and the distribution of war powers between them intentionally sets conditions for potentially profound institutional conflict.19 Such conflict has implications for judicial review and the role of the courts in war-making.20 Regardless of whether one finds ¶ the prospect of substantial checks and balances desirable as a means ¶ of controlling government decision making,21 primary legislation ¶ abolishing the war prerogative and requiring the Government to seek ¶ advance parliamentary approval for military action might replicate ¶ this internally adversarial American system. And if such a conflict ¶ does occur, the worry then becomes that unelected judges might ¶ intrude and inappropriately impose judicial solutions to controversial ¶ political disputes over war. ¶ Were Parliament ever to pass a war powers act, however, the ¶ potential for judicial meddling in matters of war might be more ¶ theoretical than real. The American experience is thus worthy of ¶ closer study and comparison because it suggests—even under constitutionally entrenched war power provisions—that this is the ¶ case. U.S. courts are loathe to interfere in war powers disputes, despite (or maybe because of) a written Constitution that places far more restrictions on government and gives far more power to the judiciary than a war powers act could do in the United Kingdom.22 In ¶ the United States, Congress has the power to declare war, raise and ¶ spend revenue, and otherwise authorize and provide for the armed ¶ forces.23 These congressional powers often collide with the war powers of the President, who, as Commander-in-Chief, deploys and ¶ commands the military.24 The result is legal ambiguity in the scope of the President’s discretion to engage in and conduct hostilities, ¶ given that it is Congress that has the authority to commit the nation ¶ to war and limit military resources. The only certainty in this system ¶ is that by assigning to the executive and legislative branches different ¶ but complementary war powers, the Constitution recognizes that both the executive and the legislature have important roles in military decision making.25 Overlap and friction between congressional and ¶ presidential war powers thus allow for considerable political ¶ maneuvering, compromise, and sometimes conflict between the ¶ legislative and executive branches. Nevertheless, some form and ¶ degree of legislative approval for executive military actions is ¶ required.26 Executive–legislative cooperation, no matter how legally ¶ tenuous or politically fragile, is thereby assured.27

### Pp

#### And congress drives perception – allies are looking for congress to assert itself

Moss, 2008 (Kenneth, professor at and chairman of the Department of National Security Studies at the Industrial College of the Armed Forces, “Undeclared War and the Future of U.S. Foreign Policy”, pg 222-223)

Congress certainly understands this last factor, but if Congress is determined to restore a better balance in presidential and congressional control over using force, senators and representatives must realize that failure to do so could further divide the United States from some international allies and friendly states. Much of that community is watching the 2007-8 debates to ascertain whether Congress will reject assertive presidential claims and reestablish a better balance in the process by which the United States decides to use military force. They see such steps as correcting independent, impulsive features of U.S. decision making. Admittedly, some American observers believe that such distance may be inevitable, even desirable, particularly if other governments are more concerned with how the United States adheres to international law when it makes decisions rather than the intent and outcome that Americans may see as justifying their actions. Fairly or not, a sizable sector of informed opinion in allied capitals judges the United States not only for its policies but also for inattention, even disregard, of its own constitution in both war and peace.