## 1AC

Same as Round 1

## 2AC

### Circumvention

#### 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.

### Resolve

#### 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.

#### 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. 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

### K

#### 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

#### Discourse doesn’t shape state behavior

Mearsheimer 95

John (International Relations professor at the University of Chicago), *The False Promise of International Institutions* in International Security Vol 19 Number 3 Winter, pp 43-44

The main goal of critical theorists is to change state behavior in fundamental ways, to move beyond a world of security competition and war and establish a pluralistic security community. However, their explanation of how change occurs is at best incomplete, and at worst, internally contradictory.155 Critical theory maintains that state behavior changes when discourse changes. But that argument leaves open the obvious and crucially important question: what deter- mines why some discourses become dominant and others lose out in the marketplace of ideas? What is the mechanism that governs the rise and fall of discourses? This general question, in turn, leads to three more specific questions: 1) Why has realism been the hegemonic discourse in world politics for so long? 2) Why is the time ripe for its unseating? 3) Why is realism likely to be replaced by a more peaceful communitarian discourse? Critical theory provides few insights on why discourses rise and fall. Thomas Risse- Kappen writes, "Research on. . . 'epistemic communities' of knowledge-based transna- tional networks has failed so far to specify the conditions under which specific ideas are selfected and influence policies while others fall by the wayside." 156 Not surprisingly, critical theorists say little about why realism has been the dominant discourse, and why its foundations are now so shaky. They certainly do not offer a well-defined argument that deals with this important issue. Therefore, it is difficult to judge the fate of realism through the lens of critical theory. Nevertheless, critical theorists occasionally point to particular factors that might lead to changes in international relations discourse. In such cases, however, they usually end up arguing that changes in the material world drive changes in discourse. For example, when Ashley makes surmises about the future of realism, he claims that "a crucial issue is whether or not changing historical conditions have disabled longstanding realist rituals of power." Specifically, he asks whether "developments in late capitalist society;" like the "fiscal crisis of the state," and the "internationalization of capital," coupled with "the presence of vastly destructive and highly automated nuclear arsenals [has] de- prived statesmen of the latitude for competent performance of realist rituals of power?" 157 Similarly, Cox argues that fundamental change occurs when there is a "disjuncture" between "the stock of ideas people have about the nature of the world and the practical problems that challenge them." He then writes, "Some of us think the erstwhile dominant mental construct of neorealism is inadequate to confront the chal- lenges of global politics today."158 It would be understandable if realists made such arguments, since they believe there is an objective reality that largely determines which discourse will be dominant. Critical theorists, however, emphasize that the world is socially constructed, and not shaped in fundamental ways by objective factors. Anarchy, after all, is what we make of it. Yet when critical theorists attempt to explain why realism may be losing its hegemonic position, they too point to objective factors as the ultimate cause of change. Discourse, so it appears, turns out not to be determinative, but mainly a reflection of developments in the objective world. In short, it seems that when critical theorists who study inter- national politics offer glimpses of their thinking about the causes of change in the real world, they make arguments that directly contradict their own theory, but which appear to be compatible with the theory they are challenging.159

#### 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**.

#### Always Value to Life, because all life has value

L Schwartz, medical ethicist, 2002, Medical ethics: a case based approach, www.fleshandbones.com/readingroom/pdf/399.pdf

Supporters of the sanctity of life ethic dismiss considerations about quality and quantity because, they assert: • all life is worth living under any condition because of • the inherent value of life. The upshot of the theory is that quality of life, although desirable, is irrelevant to assessing the value of a life because all life is inherently valuable. Many supporters of the sanctity of life criterion say this is true only of human life, but there are religious groups who claim sanctity extends to all life. Either way, the sanctity of life principle states that all human life is worthy of preservation and hence eliminates the justifiability of abortion, euthanasia and rational suicide and, at extremes, withdrawal of futile treatment: The sanctity of life ethic holds that every human life is intrinsically good, that no life is more valuable than another, that lives not fully developed (embryonic and fetal stages) and lives with no great potential (the suffering lives of the terminally ill or the pathetic lives of the severely handicapped) are still sacred. The condition of a life does not reduce its value or justify its termination.6 So, whereas to determine the value of a life on its quality asserts that there is a relevant difference between the type of life and the fact of life, this distinction is rejected by sanctity arguments as irrelevant. The sanctity criterion tends to be associated with religious beliefs. The Judeo-Christian rationale is usually that lives are inherently valuable because they are gifts from God and not ours to end as we wish. In a sense, our lives are on loan to us and, as such, must be treated with respect. In Islam, the suffering associated with reduced quality of life is also considered a divine endowment and therefore ought to The value of life: who decides and how? 115 be borne without assistance, as the suffering is said to lead to enlightenment and divine reward. However, religious arguments are not required to defend sanctity beliefs. It is enough simply to say that all human lives are deserving of equal respect not because of what they have to offer or have offered or potentially will offer, but because they exist. The notion of inalienable human rights attributes force to the value of human life with the assertion that it needs no justification. This is the primary merit of the sanctity of life ethic – that a life requires no justification – but justification is required for the premature termination of that life. In this sense, the principle acts as a forceful bulwark against devaluing human life. Article 3 of the United Nations Declaration of Human rights asserts simply that: Everyone has the right to life, liberty and security of person.7 No argument is made to justify this claim because no argument is necessary. However, it will be necessary to justify any violation of this right.

#### Not root cause – war turns their impacts

**Goldstein** **‘1**—Professor of International Relations at American University, 2001 (Joshua S., War and Gender: How Gender Shapes the War System and Vice Versa, pp.411-412)

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice”. Then if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influences wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.  So, “if you want peace, work for peace.” Indeed, if you want justice (gener and others), work for peace. Causality does not run just upward through the levels of analysis from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes toward war and the military may be the most important way to “reverse women’s oppression/” The dilemma is that peace work focused on justice brings to the peace movement energy, allies and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

#### Perm – do both

#### We have a solvency advocate and it solves.

BALKIN, Jack M. Knight Professor of Constitutional Law and the First Amendment, Yale Law School. 1998 "Deconstructions Legal Career"

http://www .yale.edu/lawweb/ibalkin/ articles/ deconstructionslegalcareer 1.pdf

The concept of nested opposition avoids these difficulties; the reliability of a conceptual opposition depends on the context in which it is understood and the purposes to which it is put. In some interpretive contexts, the opposition is useful and makes sense; while in others it does not. The recurrent error that deconstructive arguments identity is the overextension of conceptual distinctions to new contexts and new purposes where they may be inoperable, obstruct understanding, and promote injustice. But deconstruction does not argue for the destruction of all conceptual oppositions. The latter view is not only incorrect, but incoherent, for deconstructive arguments implicitly rely on conceptual oppositions to do their work. The notion of a nested opposition is related to another important deconstructive concept: iterability. Iterability is the ability of a sign to be repeated again in a new context. When a sign is repeated in a new context. it takes on a new set of cultural meanings and associations, which are both similar to and different from the previous incarnations. Thus, the iteration of the same sign in a new context creates a nested opposition between the two significations. In repetition the same text occurs twice, but its meanings are partially different. Thus. repetition always creates the possibility of a divergence or opposition within a unity of meaning. because new contexts reveal new and different cultural associations. Derrida sums up this phenomenon in his aphorism that "iterability alters." One application of the principle of iterabilitv is the phenomenon of "ideological drift." Politicians and theorists alike continually make arguments that appeal to abstract policies and principles. But when a policy or principle is repeated over and over again in new cultural surroundings. its meanings and cultural associations begin to change and hence its political valence begins to shift.

#### Alt alone fails – only the perm solves – liberalism is essential.

YALE LAW JOURNAL, 1996, p. 6

The recognition of intersubjectivity and objectification as elements inherent to our action in the social sphere reveals a new way our responsibility in the dialogue and decisions that are law. It allows us to admit the insights of deconstruction and to use them in a realistic way. It does not assert law to be rudderless or lost in relativity. Rather, it locates law in humanity, gives it a voice, and asks it to answer.

#### Their link args mischaracterize the aff –

#### 1 – Checks aren’t lip service – fiat ensures durability of plan.

#### 2 – Checks the plan doesn’t impact are inevitable in the world of the alt or the plan – plan provides momentum for reform – the alt jettisons any attempt.

#### 3 – Their link only questions a right-based lens to the aff – even if authorities are abused, our specific limitation prevents a war that impacts to extinction – we outweigh, even if we lose the link debate.

#### Our impact outweighs on scope and magnitude – unchecked presidential authority guarantees extinction – aff is a prereq.

Forrester 1989, Professor, Hastings College of the Law (Ray, August 1989, ESSAY: Presidential Wars in the Nuclear Age: An Unresolved Problem, 57 Geo. Wash. L. Rev. 1636

On the basis of this report, the startling fact is that **one** man **[person] alone has the ability to start a nuclear war**. A basic theory--if not the basic theory of our Constitution--is that **concentration of power** in any one person, or one group, **is dangerous to** mankind **[humanity]. The Constitution**, therefore, **contains a strong system of checks and balances, starting** **with the separation of powers** between the President, Congress, and the Supreme Court. The message is that no one of them is safe with unchecked power. Yet, in what is probably the most dangerous governmental power ever possessed, we find the potential for world destruction lodged in the discretion of one person. As a result of public indignation aroused by the Vietnam disaster, in which tens of thousands lost their lives in military actions initiated by a succession of Presidents, Congress in 1973 adopted, despite presidential veto, the War Powers Resolution. Congress finally asserted its checking and balancing duties in relation to the making of presidential wars. Congress declared in section 2(a) that its purpose was to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations. The law also stated in section 3 that [t]he President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated. . . . Other limitations not essential to this discussion are also provided. The intent of the law is clear. Congress undertook to check the President, at least by prior consultation, in any executive action that might lead to hostilities and war.  [\*1638]  President Nixon, who initially vetoed the resolution, claimed that it was an unconstitutional restriction on his powers as Executive and Commander in Chief of the military. His successors have taken a similar view. Even so, some of them have at times complied with the law by prior consultation with representatives of Congress, but obedience to the law has been uncertain and a subject of continuing controversy between Congress and the President. Ordinarily, the issue of the constitutionality of a law would be decided by the Supreme Court. But, despite a series of cases in which such a decision has been sought, the Supreme Court has refused to settle the controversy. The usual ground for such a refusal is that a "political question" is involved. The rule is well established that the federal judiciary will decide only "justiciable" controversies. "Political questions" are not "justiciable." However, the standards established by the Supreme Court in 1962 in [Baker v. Carr, 369 U.S. 186,](http://www.lexisnexis.com/us/lnacademic/mungo/lexseestat.do?bct=A&risb=21_T9842011382&homeCsi=7338&A=0.48452774259109876&urlEnc=ISO-8859-1&&citeString=369%20U.S.%20186&countryCode=USA) to determine the distinction between "justiciable controversies" and "political questions" are far from clear. One writer observed that the term "political question" [a]pplies to all those matters of which the court, at a given time, will be of the opinion that it is impolitic or inexpedient to take jurisdiction. Sometimes this idea of inexpediency will result from the fear of the vastness of the consequences that a decision on the merits might entail. Finkelstein, Judicial Self-Limitation, 37 HARV. L. REV. 338, 344 (1924)(footnote omitted). It is difficult to defend the Court's refusal to assume the responsibility of decisionmaking on this most critical issue. The Court has been fearless in deciding other issues of "vast consequences" in many historic disputes, some involving executive war power. It is to be hoped that the Justices will finally do their duty here. But **in the meantime the spectre of single-minded power persists, fraught with all of the frailties** of human nature **that each human possesses, including the President**. World history is filled with tragic examples. Even if the Court assumed its responsibility to tell us whether the Constitution gives Congress the necessary power to check the President, the War Powers Resolution itself is unclear. Does the Resolution require the President to consult with Congress before launching a nuclear attack? It has been asserted that "introducing United States Armed Forces into hostilities" refers only to military personnel and does not include the launching of nuclear missiles alone. In support of this interpretation, it has been argued that Congress was concerned about the human losses in Vietnam and in other presidential wars, rather than about the weaponry. Congress, of course, can amend the Resolution to state explicitly that "the introduction of Armed Forces" includes missiles as well as personnel. However, the President could continue to act without prior consultation by renewing the claim first made by President  [\*1639]  Nixon that the Resolution is an unconstitutional invasion of the executive power. Therefore, the real solution, in the absence of a Supreme Court decision, would appear to be a constitutional amendment. All must obey a clear rule in the Constitution. The adoption of an amendment is very difficult. Wisely, Article V requires that an amendment may be proposed only by the vote of two-thirds of both houses of Congress or by the application of the legislatures of two-thirds of the states, and the proposal must be ratified by the legislatures or conventions of three-fourths of the states. Despite the difficulty, the Constitution has been amended twenty-six times. Amendment can be done when a problem is so important that it arouses the attention and concern of a preponderant majority of the American people. But the people must be made aware of the problem. It is hardly necessary to belabor the relative importance of the control of nuclear warfare. A constitutional amendment may be, indeed, the appropriate method. But the most difficult issue remains. What should the amendment provide? How can the problem be solved specifically? The Constitution in section 8 of Article I stipulates that "[t]he Congress shall have power . . . To declare War. . . ." The idea seems to be that only these many representatives of the people, reflecting the public will, should possess the power to commit the lives and the fortunes of the nation to warfare. This approach makes much more sense in a democratic republic than entrusting the decision to one person, even though he may be designated the "Commander in Chief" of the military forces. His power is to command the war after the people, through their representatives, have made the basic choice to submit themselves and their children to war. **There is a recurring relevation of a paranoia of power**throughout human history **that has impelled one leader after another** to draw their people **into wars** which, in hindsight, were foolish, unnecessary, and, in some instances, downright insane. Whatever may be the psychological influences that drive the single decisionmaker to these irrational commitments of the lives and fortunes of others, the fact remains that the **behavior is a predictable** one **in any government that does not provide an effective check and balance against uncontrolled power in the hands of one human**. We, naturally, like to think that our leaders are above such irrational behavior. Eventually, however, human nature, with all its weakness, asserts itself whatever the setting. At least that is the evidence that experience and history give us, even in our own relatively benign society, where the Executive is subject to the rule of law.  [\*1640]  Vietnam and other more recent engagements show that it can happen and has happened here. But the "nuclear football"--the ominous "black bag" --remains in the sole possession of the President. And, most important, his **[the] decision to launch a nuclear missile would be**, in fact if not in law, a **declaration of nuclear war, one which** the nation and, indeed, **humanity** in general, probably **would be unable to survive**.

### CP

#### Perm do both – solves the link to politics and restraint because it’s perceived as cooperation and Obama wouldn’t fight

#### Perm do the CP

#### Doesn’t solve the aff –

#### SOP – Presidential discretion is destabilizing – Adler and Brookings ev says that the president consistently makes threats – he’ll inevitably get drawn in – Koh ev says only congressional restrictions solve

#### Credibility – None of our allies perceive presidential action as credible – ensures deliberation and credible threats of force – that’s Shiffer and Frye

#### CP fails to bolster alliances – only congressional action sovles

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.

#### CP links to both DA’s

#### Anything short of congressional approval fails – lacks appropriate signal to prevent circumvention and overreliance on the military

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)

I have not tried to answer whether the U.S. military’s current role is appropriate in the present or future global environment, although a reader can infer that I am deeply troubled by this trend. Over-reliance on such an instrument not only has serious consequences for the position of the United States and its effectiveness internationally; as many have feared or argued since the nation’s beginning, it also significantly affects the political system domestically. Conservatives often criticize the rise of “big” government, and sometimes identify America’s global role and the strong presidency it entailed as a cause; liberals distrust concentrated presidential power when it diverts resources to international ambition rather than domestic need or commits U.S. forces to an unpopular foreign war. Since the Cold War ended, executive-congressional relations have evolved in a way that makes resorting to military force easier, often without serious congressional scrutiny. Government operations and even trends in public thinking and culture have seemed to move toward backing military force.6 The absence of serious review and debate, which goes far beyond congressional duty to review budget figures and approve program funding, has caused questionable applications of U.S. military power and when other measures, such as diplomacy and aid, might have dealt more effectively with the causes than with the consequences or when the extend of military force used proved inadequate. The congressional approach to war powers has been pro forma too frequently—checking the box without the attention the situation actually demands. Such treatment of war powers contributes to an erosion of accountability that has slowly worked its way down to both military services’ and civilian departments’ operational levels. If lawmakers do not fulfill their responsibility by demanding full justification of policies and subsequent conduct, it is hard to expect that others will feel a higher obligation to try and do the same. If many in congress believe that the United States struggles in Iraq due to inadequate numbers of troops and other personnel, they cannot just blame George W. Bush’s administration. Congress had ample opportunity to inquire and discuss other options, but did little of what it actually should have.

#### CP sends a weak signal – fails to solve

Samples, 2011 (John, Director for Representative Government at the Cato Institute, “Congress Surrenders the War Powers: Libya, the United Nations, and the Constitution”, Policy Analysis, October 27, http://www.cato.org/sites/cato.org/files/pubs/pdf/pa687.pdf)

President Clinton sent American engineers to begin rebuilding the nation as part of the agreement; their ship was met by armed resistance at the Haitian port. Clinton sent U.S. ships to enforce the UN blockade.50 Clinton acted as if he needed no approval from Congress to use force, but Congress did little in response.51 The Senate did approve a “sense of Congress” resolution that the U.S. military should not be involved in combat in Haiti absent prior approval from Congress or a detailed report from the president prior to committing troops. The House affirmed this amendment,52 and 1993 ended with the military still in control of Haiti. The president had not ordered an invasion, and Congress had done little to preclude one. In 1994 Congressional Quarterly remarked, “Support for Aristide and dramatic action in Haiti was not widespread in Congress.” Yet Congress could not speak with one voice against an invasion. In May the House opposed the use of force in Haiti.53 A month later, in a different vote, a majority in the House voted against the amendment.54 A number of Democratic House members changed their minds over that month, deciding in the end to support the head of their party and the U.S. military’s commander-in-chief.55 Clinton and the United Nations tightened the sanctions against Haiti. The president’s representatives spoke for the first time of vindicating democracy in Haiti through American force. Congress sensed a momentum building toward invasion. The Senate eventually passed another “sense of the Senate” resolution stating that a UN Security Council resolution was not sufficient backing for an invasion.56 A more vigorous assertion of congressional authority—an amendment requiring the president to obtain congressional approval before invading Haiti—was defeated handily.57 Clinton went forward with a plan to invade Haiti.58 Clinton also sought the support for an invasion from several nations in Latin America.59 He called up the Army reserves and made ready to launch Operation Uphold Democracy. Clinton did not seek congressional approval, and Congress did not try to stop him. Once again the president turned to the Office of Legal Counsel for legal justification. OLC argued that Congress had essentially authorized the action provided the president gave certain information to the legislature. He had done so, which suggested the invasion was constitutional. In regard to the War Powers Resolution (WPR), the OLC concluded that the law sought “to prevent the United States from being engaged, without express congressional authorization, in major, prolonged conflicts such as the wars in Vietnam and Korea, rather than to prohibit the President from using or threatening to use troops to achieve important diplomatic objectives where the risk of sustained military conflict was negligible.” Since the conflict in Haiti was not expected to be either long or bloody, the WPR did not apply. Finally, the OLC argued the Haiti invasion was not “war” in a constitutional sense: “‘war’ does not exist where United States troops are deployed at the invitation of a fully legitimate government in circumstances in which the nature, scope, and duration of the deployment are such that the use of force involved does not rise to the level of ‘war.’” 60 In sum, an armed conflict involving the (likely successful) invasion of another nation did not, according to the OLC, constitute a war

### CMR

#### Durable fiat solves rollback

#### We control the internal link to interventionism – Inev in the squo – alliances solve the impact

#### UQ ev says crisis now – both Zenko and Owens ev both say CMR down now

#### Plan’s key to CMR

Yingling, 2010 (Februrary, LT. COL. PAUL L. YINGLING is an Army officer who has served three tours of duty in Iraq and who is currently a professor of security studies at the George C. Marshall Center in Garmisch, Germany. The views expressed here are the author’s own and do not necessarily reflect those of the Army or Defense Department., “The Founders’ wisdom“ http://armedforcesjournal.com/article/2010/02/4384885)

The Founders also extended legislative oversight to the conduct of war itself. By vesting the power to declare war with Congress, the Founders ensured that America would choose its wars carefully. While Congress may be less well-suited to vigorous unitary action than the executive, it is far better-suited to engage in deliberation over the purpose and necessity of committing the nation to war. At the same time, entrusting Congress with the power to declare war ensured that America would prosecute its wars vigorously. The Founders expected that the prosecution of war would require the mobilization of the militia under federal service paid for under the federal budget. The president alone is the commander in chief, but he is dependent on the Congress to raise and maintain military forces and to mobilize the militia. The president may appoint officers to positions of command, but such appointments are dependent on Senate confirmation. Most importantly, the president cannot commit the nation to war without congressional authority. While in practice the president may act in the interest of public safety, Congress’ power of the purse limits such actions to brief expeditionary operations. Many of the difficulties in civil-military relations today are attributable to our departure from the elegant system of checks and balances established in the Constitution. Congress has all but abdicated many of its war powers, including raising forces, confirming the appointment of officers, providing oversight to operations and declaring war. This has made the U.S. weaker by allowing hasty, ill-considered and poorly supported executive actions to imperil national security. The remedy for these failures requires not innovation, but rather a return to the time-tested principles of America’s founding.

#### Their link evidence is really bad – it says that the military is appealing to congress to check the president

### Politics

#### No impact

O'Toole 9/30 (James, CNN Money Writer, "Rating Agencies An Afterthought in Debt Ceiling Fight"2013, http://money.cnn.com/2013/09/30/news/economy/rating-agencies/index.html) CMR

No one can predict exactly what the consequences of a missed payment would be, but analysts agree it's [a terrifying prospect](http://money.cnn.com/2013/09/27/news/economy/debt-ceiling-faqs/index.html?iid=EL). Another downgrade alone, however, is unlikely to make much difference.¶ "At the end of the day, even with a downgrade, the U.S. Treasury is still the safest game in town," said Michael Brown, an economist at Wells Fargo ([WFC](http://money.cnn.com/quote/quote.html?symb=WFC&source=story_quote_link), [Fortune 500](http://money.cnn.com/magazines/fortune/fortune500/2012/snapshots/2578.html?iid=EL)). Rates are also being held lower by the Federal Reserve's bond-buying program, he added.¶ New downgrades could raise borrowing costs years down the line, but "in the immediate term, I don't think you'd see a massive movement of rates," Brown said. Some investment firms operate under guidelines that prohibit them from holding securities that aren't rated AAA by one, two or all three of the major rating agencies. They could therefore be forced to sell them following a downgrade, creating upward pressure on yields.¶ But among buyers of Treasuries, these firms are "very, very small relative to those that don't have a ratings threshold," Brothers said.¶ "There are ramifications if U.S. Treasury debt isn't AAA, but I don't think that would create a cascade of selling," he said.

#### Unilateral action solves

- they’re “won’t happen ev” doesn’t assume last-minute pressure

Schwartz 10/2 (Nelson, “Wall St. Fears Go Beyond Shutdown”, 2013, <http://www.nytimes.com/2013/10/03/business/wall-st-fears-go-beyond-shutdown.html?_r=0>, CMR

Still, some **observers** outside government in Washington and on Wall Street, **citing** a **game theory** like approach, **suggest** that **the president’s position is** more tactical than fundamental, since raising the possibility of a way out for the White House like the constitutional gambit would take the heat off Republicans in Congress to act on its own before the Oct. 17 deadline.¶ “**If a default is** imminent**, the option of raising the debt limit by executive fiat** has to be on the table,” **said** Greg Valliere, **chief political strategist at Potomac** Research. “Desperate times require desperate measures.”¶ Some professional investors echoed his view, **which is a reason Wall Street remains hopeful** that the economic and financial disaster a government default could usher in will be avoided.¶ “**At the end of the day if there is no action and the U**nited **S**tates **has a default looming**, I think President **Obama can issue an ex**ecutive **o**rder **authorizing the Treasury secretary to make payments**,” said David Kotok, chief investment officer of Cumberland Advisors in Sarasota, Fla., which has just over $2 billion under management. “**There’s always been more flexibility in the hands of Treasury than they’ve acknowledged.**”¶ **According to** some **legal theorists, the president could** essentially **ignore the debt limit** imposed by Congress, **because the 14th Amendment states** that **the “validity of the public debt** of the United States, **authorized by law,**” including for debts like pensions and bounties to suppress insurrections, “shall not be questioned.”

( ) Resilience – No collapse, no war

Barnett ‘9 – WPR columnist and editor for Esquire, senior managing director of Enterra Solutions (8/24, Thomas, World Politics Review, “The New Rules: Security Remains Stable Amid Financial Crisis”, <http://www.worldpoliticsreview.com/articles/4213/the-new-rules-security-remains-stable-amid-financial-crisis>, CMR)

**When the global financial crisis struck** roughly a year ago, **the blogosphere was ablaze with** all sorts of **scary predictions of**, and commentary regarding, **ensuing conflict** and wars -- a rerun of the Great Depression leading to world war, as it were. **Now, as** global **economic news brightens** and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, **it's interesting to** look back over the past year and **realize how globalization's first** truly **worldwide recession** has **had** virtually no impact whatsoeveron the international security landscape. **None of the** more than **three-dozen ongoing conflicts** listed by GlobalSecurity.org **can be clearly attributed to the** global **recession**. Indeed, **the last new entry** (civil conflict between Hamas and Fatah in the Palestine) **predates the economic crisis by a year,** and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. **Looking over** the various **databases**, then, **we see a** most **familiar picture: the usual mix of civil conflicts**, **insurgencies**, and liberation-themed **terrorist movements**. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). **Everywhere else we find serious instability we pretty much let it burn**, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. **So**, to sum up: \***No significant uptick in mass violence or unrest** (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); \*The **usual frequency** maintained **in civil conflicts** (in all the usual places); \***Not a single state-on-state war** directly caused (and no great-power-on-great-power crises even triggered); \*No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); \*A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and \***No serious efforts by any rising great power to challenge** that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly **cooperation on** such **stimulus packaging was the most notable great-power dynamic caused by the crisis**. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. **The world's major economies remain governed by center-left or center-right political factions** that remain decidedly friendly to both markets and trade. **In the short run, there were attempts** across the board **to insulate economies** from immediate damage (in effect, as much protectionism as allowed under current trade rules), **but there was no great slide into "trade wars."** Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic **radicalism** was inflamed by the economic crisis? If it was, that shift **was clearly overwhelmed by the Islamic world's growing disenchantment with** the **brutality** displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, **the** economic **crisis did not prove to be sufficiently frightening to provoke** major **economies into establishing global regulatory schemes, even as it** has **sparked a spirited** -- and much needed, as I argued last week -- **discussion of the** continuing viability of the U.S. **dollar** as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, **such "diverging interests" hardly constitute signposts for wars up ahead**. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that **this** global financial **crisis has** proven **the great** resilience **of America's** post-World War II **international** liberal trade **order**. Do I expect to read any analyses along those lines in the blogosphere any time soon? Absolutely not. I **expect the fantastic fear-mongering to proceed** apace. **That's what the Internet is for.**

#### Won’t pass because of election fears and Obama’s approach prolongs Republican backlash\*\*\*

Kaplan 10-3-13 [Rebecca, serves as City Councilmember At-Large for Oakland, California, CBS News, “Why is it so difficult to end the government shutdown?” <http://www.cbsnews.com/8301-250_162-57605784/why-is-it-so-difficult-to-end-the-government-shutdown/>] CMR

As the government shutdown enters its third day, **Democrats and Republicans seem** no closer **to bridging their differences than they were when the shutdown began** early Tuesday morning. **It's difficult to say when the standoff will end**. The two **shutdowns** that occurred **in 1995 and 1996 lasted** a total of **27 days. And** back then, the **conditions** for getting to a deal **were much better**.¶ Republicans won the House and Senate in the 1994 midterm elections - the first time the party had a House majority in 40 years. That set up a showdown between House Speaker Newt Gingrich, who had run on a conservative platform, and then-President Bill Clinton. That dispute came in 1995, when Gingrich wanted to balance the budget in a short time frame and Clinton wanted money spent on Democratic priorities. After two separate shutdowns and several weeks, the pressure was too high on Republicans and they cut a deal with Clinton: he would get his priorities, but would have to balance the budget for 10 years.¶ "They were kind of testing each other," said former Rep. Tom Davis, R-Va., who was a freshman in Congress at the time. Afterward, Davis noted, Clinton and Gingrich would go on to work together on a host of issues including welfare reform. The economy boomed, helping to mitigate budget issues.¶ Republicans who were lawmakers or aides in Congress in 1995 cite a variety of reasons that the shutdown ended. For Davis, it was the mounting public pressure on Republicans and their rapidly dropping poll numbers that helped spur a compromise. "There was a revolt, and they simply couldn't hold their members after a while," he said of the Republican leadership. It didn't help that Republicans were afraid of losing the first majority they'd had in decades. Davis recalls going to former Rep. Dick Armey, then the Republican Majority leader from Texas, and saying, "We're getting our butts kicked."¶ But Bob Walker, then a Republican congressman from Pennsylvania, had a different take from the conventional narrative that Republicans had caved. "We stayed focused in 1995 on the fact that what the end result for us was to get a pathway to a balanced budget, and so in the end when we got an agreement to just begin the process of moving toward a balanced budget," he said. "We declared victory on that and we were prepared to then get the government back into action."¶ **This time, it's not so easy for Republicans to achieve even a piece of their chief goal** - to dismantle the Affordable Care Act. The law is President Obama's signature policy achievement, and its constitutional authority was affirmed by the Supreme Court. Democrats in the Senate and Mr. Obama himself have proven with the shutdown fight that they are determined to keep the law intact.¶ "We didn't get an immediate balanced budget obviously but what we got was a seven-year plan toward a balanced budget that then ended up being accomplished in there years," Walker said of the House Republicans in 1995. But nowadays, he said, "I'm not certain I see where the bottom lines are."¶ As shutdown continues, Obama says Wall Street "should be concerned"¶ Government shutdown: Is Congress acting selfishly?¶ Yet another explanation of why the 1995-1996 shutdown ended had to do with presidential politics. Former Senate Majority Leader Bob Dole, R-Kansas, was eyeing a presidential bid against Clinton in 1996.¶ "He just got sick of it. I think he started seeing that this was directly impacting his ability to run for president," said John Feehery, a political strategist who was the communications director for then-House Majority Whip Tom DeLay during the shutdown. Dole was key to engineering an end to the shutdown, a fact that was apparent to everyone - even Democrats.¶ "It was a huge factor," said American University professor Patrick Griffin, who served as Clinton's assistant for legislative affairs from 1994 to 1996. "We could always sense that there was no love lost between him and [Gingrich] - on the [Contract with America], on the shutdown. It was just not Dole's style...he was wasting time, he was not being able to get his campaign."¶ If anything, presidential politics will lengthen the shutdown. Mr. **Obama has no re-election campaign** to worry about - like Clinton did at the time - **and Republican** presidential **campaigns cannot be won without pleasing an active base that hates the healthcare law. It would be difficult for any Republican to help broker a compromise that preserved most of Obamacare and then woo Republican primary voters**.¶ **Not that many Republicans feel as if they can work with** Mr. **Obama**. "Many people in Congress ...believe that the president treats them with contempt and so the atmosphere for negotiating is not very good. That's a big difference," said Walker.¶ House Speaker John Boehner, R-Ohio, and Mr. Obama have tried and failed to negotiate big deals several times**. Since the** government **shut down** on Tuesday, **they've barely talked** aside from a meeting the president held with top congressional leaders Wednesday afternoon. And a recent Politico story that detailed how Boehner and Senate Majority Leader Harry Reid, R-Nev., worked together to preserve congressional subsidies for healthcare coverage will likely have poisoned the well between the leaders of the two chambers.¶ That wasn't the case with Gingrich and Clinton, despite their differences. "Both President Clinton and Speaker Gingrich had a pretty civil and reasonably good personal relationship," said Mack McLarty, Clinton's first chief of staff as president. Both hailed from the south, and had "very inquisitive minds" about the world around them.¶ Perhaps **the biggest roadblock to a deal**, however, **is the** increasingly partisan nature **of Congress caused by congressional redistricting that puts many members into seats where fewer and fewer constituents are from the opposite party**. In 1995, more than 34 percent of Republican representatives in the House were elected in districts that had voted for Clinton as president. Now, only seven percent of House members come from districts that voted for Mr. Obama.¶ There's a larger proportion of hardline conservatives in the House in 2013, and they have so far been more successful at driving the agenda than their more moderate counterparts. "The-rank-and-file members are sick and tired of the rebels running the thing but there's too many of them who vote with the rebels to protect their flank," Feehery said, referring to Republicans who are worried about receiving a primary challenge from the right.¶ **With** so many factors **working** against a deal**, it's hard to see a way out of the crisis**. The only thing that's guaranteed to inject some urgency into the debate is the looming deadline to raise the debt ceiling on Oct. 17. While a government shutdown can have minimal effects on the financial markets, the possibility of the U.S. defaulting is much more likely to cause financial panic that could push lawmakers into a deal.¶ Plus, **if the spending and debt ceiling deals** morph into one**, there may be more issues on the table to discuss such as the sequester and the whole federal budget. That**, Walker said, **will** give Republicans more areas where they can look for victory.

#### Not intrinsic – do the plan and pass \_\_\_\_\_\_\_\_\_\_\_

#### All their link args are non-unique

NPR 9/21, “Have Obama's Troubles Weakened Him For Fall's Fiscal Fights?” <http://www.ideastream.org/news/npr/224494760>, CMR

President Obama has had a tough year. He failed to pass gun legislation. Plans for an immigration overhaul have stalled in the House. He barely escaped what would have been a humiliating rejection by Congress on his plan to strike Syria.¶ Just this week, his own Democrats forced Larry Summers, the president's first choice to head the Federal Reserve, to withdraw.¶ Former Clinton White House aide Bill Galston says all these issues have weakened the unity of the president's coalition.¶ "It's not a breach, but there has been some real tension there," he says, "and that's something that neither the president nor congressional Democrats can afford as the budget battle intensifies."¶ Obama is now facing showdowns with the Republicans over a potential government shutdown and a default on the nation's debt. On Friday, the House voted to fund government operations through mid-December, while also defunding the president's signature health care law — a position that's bound to fail in the Senate.¶ As these fiscal battles proceed, Republicans have been emboldened by the president's recent troubles, says former GOP leadership aide Ron Bonjean.

#### Fiat solves the link — it’s instant — no political effect – most logical because congress is the agent of the resolution this year

#### ---Plan splits the GOP

Corn 13 – David Corn, Reporter at Mother Jones, "Obama, Syria, and Congress: Why Did He Go There?", Mother Jones, 9-6, <http://www.motherjones.com/politics/2013/09/why-obama-sought-congressional-authorization-syria>, CMR

**With his decision to seek congressional approval** for an attack, **Obama created a** political whirlpool. **He exacerbated the growing schism on the right that pits tea party isolationists**—led by possible presidential candidate Sen. Rand Paul (R-Ky.), with Sens. Ted Cruz (R-Tex.) and Marco Rubio (R-Fla.), other likely 2016ers, rushing to catch up—**versus** the coalition of **hawks** commanded by Sen. John McCain (R-Ariz.) and neocons who yearn for a deeper and larger intervention in Syria than the president envisions. **This** split **has the potential to turn into an** ideological civil war **within the GOP** during the next presidential campaign. Meanwhile, **House Republicans are** deeply divided (unlike during the run-up to the Iraq war), with Speaker John Boehner (R-Ohio) and his leadership crew on the president's side and rank-and-file House GOPers, enwrapped in Obama hatred, accusing the president of misleading the world and engaging in conspiratorial warmongering.

## 1AR

### CP

#### CP doesn’t resolve SOP – only binding restrictions solve

Fisher, 2009 (Louis, specialist in constitutional law with the Law Library at the Library of Congress, “The Baker-Christopher War Powers Commission”, Presidential Studies Quarterly, 39.1, March, 128-140, Proquest)

If Congress were to pass the resolution of support, it would have no legal or constitutional meaning. The resolution would merely express the view or opinion of Congress. In their introduction to the report, Baker and Christopher identify three "guiding principles" in deciding to work with the commission: "the rule of law, bipartisanship, and an equal respect for the three branches of government" (National War Powers Commission 2008, 3). A nonbinding resolution of approval has nothing to do with the rule of law. The procedures adopted by the commission do not demonstrate "equal respect" for all three branches. They tilt decisively toward executive power. Bipartisanship cannot be achieved by allowing the president to initiate war after consulting with 20 lawmakers and engaging in war for two months while awaiting passage of a concurrent resolution of approval. What happens if the resolution of approval fails to pass? The bill provides that any lawmaker may file a joint resolution of disapproval, requiring a vote within five calendar days. Five in each chamber or five total? The bill is unclear. What is clear is the next step: A joint resolution must go to the president, who would be expected to veto it. Congress must then muster a two-thirds majority in each chamber to override the veto. In other words, the president could initiate a war and continue it as long as he has one-third plus one in a single chamber. That procedure is flatly unconstitutional.

#### Obama only circumvents the CP

Stevenson, 2008 (Charles, he teaches at the Nitze School of Advanced International Studies of Johns Hopkins University, “Congress in retreat on war powers reform”, Boston Globe, July 11, http://www.boston.com/bostonglobe/editorial\_opinion/oped/articles/2008/07/11/congress\_in\_retreat\_on\_war\_powers\_reform/)

THE MEMBERS of the National Commission on War Powers agreed not to disagree, and so produced a report this week that leaves basic constitutional issues unresolved. They considered it a virtue that their proposal "avoids clearly favoring one branch over the other." What's worse, their recommended substitute for the 1973 war powers law would make it even easier for presidents to begin and continue military operations opposed by a majority of Congress and the American people. The commission calls the 1973 law "impractical and ineffective." That's half right. It has been ineffective because no president has accepted its validity and several spineless Congresses have failed to assert their rights with votes instead of chest-thumping speeches. It is no less practical than the commission's mushy alternative. Unwilling to say that either the president or Congress has the preeminent role and power to send US forces into "significant armed conflict," the commission settles on "consultation" between the president and a dozen key leaders in Congress as the preferred solution. It believes that a law requiring the president to have "a timely exchange of views" would be more effective than the current law's mandates for consultation, formal reports, and planned termination of combat operations within 90 days without further congressional support. Of course, consultation would be good - good for policy and good for politics. But there is no penalty for noncompliance in the commission's draft bill. And thus there is no guarantee that future presidents will be any more forthcoming with lawmakers than their predecessors. Current law requires consultations and reports whenever the president wants to send troops into hostile situations or when "equipped for combat." The law exempts troop deployments which relate "solely to supply, replacement, repair, or training." The commission proposal lists seven conditions which don't qualify as "significant armed conflict," including actions "to prevent imminent attacks on the United States, its territories, its embassies, its consulates, or its armed forces abroad" as well as "missions to protect or rescue American citizens or military or diplomatic personnel abroad." It even exempts "acts to prevent criminal activity abroad."

### MPX D---1AR---No !

#### No impact- prioritization

Romina Boccia is the Grover M. Hermann Fellow in Federal Budgetary Affairs in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation., 9-18-2013 <http://www.heritage.org/research/reports/2013/09/debt-limit-options-and-the-way-forward>, CMR

**If Congress does not raise the debt limit** by mid-October, **the Treasury would not** necessarily **default** on debt obligations. Even while cash-strapped, **the Treasury can** reasonably **be expected to prioritize principal and interest payments** on the national debt, **protecting the full faith and credit of the U**nited **S**tates above all other spending. **It is** almost impossible **to conceive** that **the Treasury and** the **President would choose to default** on debt obligations because doing so would have damaging economic consequences.¶ Nevertheless, **the Treasury and** the **President have repeatedly** invoked the threat of default **to pressure Congress into raising the debt ceiling** without substantial spending cuts and policy reforms. In July, Secretary Lew said on ABC’s This Week: “Congress can’t let us default. Congress has to do its work.”[6] On August 26, he wrote to Congress: “Congress should act as soon as possible to protect America’s good credit by extending normal borrowing authority well before any risk of default becomes imminent.”[7] President Obama also mentioned default at the G-20 summit: “That includes making sure we don’t risk a U.S. default over paying bills we’ve already racked up.”[8 ]¶ The Treasury justifies this threat by arguing that it lacks the logistical means and the authority to prioritize federal payments and will instead delay all payments, including debt obligations, in the event of a debt limit impasse. This interpretation of authority directly contradicts a previous statement by the Government Accountability Office, which asserted that **the Treasury has the discretion to prioritize payments**:¶ **We are aware of no statute** or any other basis **for concluding** that **Treasury is required to pay outstanding obligations** **in the order in which they are presented** for payment unless it chooses to do so. **Treasury is free to liquidate obligations in any order it finds will best serve the interests of the U**nited **S**tates.[9 ]¶ A briefing paper from the Harvard Law School sheds light on why the Treasury may insist on the possibility of debt default, noting that “adherence to a FIFO [first in, first out] approach may have served to apply pressure to Congressional Republicans.”[10] Further support for this argument comes from an Administration official who, speaking on the basis of anonymity, suggested in 2011 that Treasury intended to prioritize meeting its debt obligations to avoid default.[11] Recently, the credit rating agency Moody’s asserted confidence in the federal government meeting its debt obligations in the context of current debt limit negotiations:¶ We think that they will raise the debt ceiling, as they always have in the past. But **even if there’s some delay, we’re not** too **concerned about that affecting the government’s ability to service its debt**.[12 ]¶ Fitch, another credit rating agency, was even more direct in its assessment:¶ Fitch assumes that even in the unlikely event that the debt limit is not raised in a timely fashion, there is sufficient political will and capacity to ensure that Treasury securities will continue to be honoured in full and on time.[13 ]

### XO

#### He’ll do it – solves the impact

Aaron, senior fellow at the Brookings Institution, 9-29-13

(Henry, “Our Outlaw President?,” http://www.nytimes.com/2013/09/30/opinion/obama-should-ignore-the-debt-ceiling.html, accessed 10-1-13, CMR)

**Failure to raise the debt will force the president to break a law** — the only question is which one.¶ The Constitution requires the president to spend what Congress has instructed him to spend, to raise only those taxes Congress has authorized him to impose and to borrow no more than Congress authorizes.¶ If President Obama spends what the law orders him to spend and collects the taxes Congress has authorized him to collect, then he must borrow more than Congress has authorized him to borrow. If the debt ceiling is not raised, he will have to violate one of these constitutional imperatives. Which should he choose?¶ In 2011, when Congress last flirted with not raising the debt ceiling, lawyers disagreed. Some argued that the president must honor the debt ceiling, thereby violating budget laws. Others held that he must honor budget legislation. No one argued that he should unilaterally raise taxes. Professors Neil H. Buchanan and Michael C. Dorf, who parsed the arguments in the Columbia Law Review in 2012, concluded that all options were bad, but that disregarding the debt ceiling was least bad from a legal standpoint.¶ I agree. Lawyers tend to play down policy considerations as a basis for interpreting law. In this case, the consequences are so overwhelmingly on one side that they cannot be ignored by the president and should not be ignored by the courts. If the debt ceiling is not increased, the president should disregard it, and honor spending and tax legislation.¶ A decision to cut spending enough to avoid borrowing would instantaneously slash outlays by approximately $600 billion a year. Cutting payments to veterans, Social Security benefits and interest on the national debt by half would just about do the job. But such cuts would not only illegally betray promises to veterans, the elderly and disabled and bondholders; they would destroy the credit standing of the United States and boost borrowing costs on the nation’s $12 trillion publicly held debt.¶ There is no clear legal basis for deciding what programs to cut. Defense contractors, or Medicare payments to doctors? Education grants, or the F.B.I.? Endless litigation would follow. No matter how the cuts might be distributed, they would, if sustained for more than a very brief period, kill the economic recovery and cause unemployment to return quickly to double digits.¶ Nor is it reasonable to expect the president to collect more in taxes than is authorized by law. For him to do so would infringe on Congress’s most fundamental powers and the principles on which the nation was founded.¶ **The only defensible option for the president if the debt ceiling is not raised is to disregard the debt ceiling**. The action would be unconstitutional because it would be illegal. **Financial markets might react negatively, but not nearly so negatively as if the U**nited **S**tates **failed to redeem bonds or to pay interest on its debt.**¶ **The president would be attacked**. He might even be impeached by the House. But maybe not: **the House would then be saying that the president should have illegally failed to pay F.B.I. agents, or school districts, or Medicare doctors**. In any case, **he would not be convicted** by the Senate. And **he would have saved the nation** from much agony.¶ Disregarding the debt ceiling would have one additional, thoroughly benign effect. It would end the capacity of Congressional minorities to precipitate crises in order to accomplish goals for which they lacked the votes. Today, a minority is holding hostage all federal programs in an attempt to eviscerate a law that Congress passed, the president signed and the Supreme Court upheld — the Affordable Care Act. In the future, an imaginative and irresponsible minority could use the threat not to raise the debt ceiling for any purpose — to shape tax policy, or foreign policy, or civil rights policy.¶ The debt ceiling is the fiscal equivalent of the human appendix — a law with no discoverable purpose. It is one law too many. Once Congress has set tax rates and spending levels, it has effectively said what it wants the debt to be. **If Congress leaves the debt ceiling at a level inconsistent with duly enacted spending and tax laws, the president has no choice but to ignore it.**

### Won’t Pass – 1AR – Top-Shelf

**Obama’s already negotiating and the GOP demanded new cuts---markets already perceive default as likely which means they’ve factored in their impacts**

Peter **Schroeder 10-3**, The Hill, “GOP puts new price on debt hike (Video),” http://thehill.com/homenews/news/326271-gop-puts-new-price-on-debt-hike#ixzz2gh1fRpw7

GOP puts new price on debt hike (Video)

Rank-and-file members want Speaker John Boehner (R-Ohio) to return to the so-called “Boehner Rule,” which they say means any debt limit hike must be matched by an equal amount of spending cuts.

An earlier GOP measure to raise the debt ceiling included a host of GOP priorities, including defunding ObamaCare and constructing the Keystone XL pipeline, but not dollar-for-dollar spending cuts.

Now, as it looks increasingly like the government shutdown fight will be paired with raising the debt ceiling, Republicans are pushing hard for a strong opening bid and are adamant that changes to entitlement programs be included in any final deal.

“The American people are realizing that spending has got to be brought under control,” said Rep. Marsha Blackburn (R-Tenn.). “I want three dollars’ worth of cuts for any dollar [of debt limit increase.]”

Washington is struggling to find a way out of the standoff over the government shutdown with the Oct. 17 deadline for raising the debt ceiling fast approaching.

The earlier GOP plan has been shelved, but a spokesman for Boehner on Wednesday said it technically met the Boehner Rule when taking into account both cuts and economic growth.

Rep. Kevin Brady (R-Texas), who released an economic report touting the benefits of the earlier plan, told The Hill on Wednesday that his colleagues are looking for more “meaningful” cuts, particularly on entitlements.

“It’s very much in play,” he said of the dollar-for-dollar approach. “Discretionary savings were modest but important, but really to get a handle on our finances, we’ve got to really start to save the entitlements.”

Asked what he wants on the debt ceiling deal, Rep. Marlin Stutzman (R-Ind.) quickly replied, “dollar-for-dollar cuts.”

“We’ve got to start getting control of our spending,” he added. “I’d like to see us even address entitlement programs.”

In private, many in the financial industry are growing increasingly concerned about a possible default, given the broad gap between the two parties and the shrinking timeline for action.

President Obama has repeatedly said he will not negotiate over raising the debt limit even as he called congressional leaders to the White House on Wednesday to discuss both the shutdown and debt ceiling.

Some speculate stocks must crash to get the sides to compromise.

“People are willing to risk it all, the credibility of the country … for political reasons,” said one banking lobbyist. “You let the market fall by 400 or 500 points and watch the constituent calls start to come in.”

The president huddled Wednesday with the heads of the nation’s largest financial institutions, who reiterated their concern over using the debt limit as a political tool.

“Individual members of our group represent every point on the political spectrum,” Goldman Sachs head Lloyd Blankfein told reporters after the private meeting. “You can litigate these policy issues, you can re-litigate these policy issues in a public forum, but they shouldn’t use the threat of causing the U.S. to fail on its obligation to repay debt as a cudgel.”

Republicans have long argued they have public opinion on their side in the debt fight, but a new poll released Wednesday by CNN/ORC International found that a majority of the public believe failing to raise the debt limit would be a bad thing for the nation. Only 38 percent said it would be a positive.

A Quinnipiac University poll released one day earlier found 64 percent opposed blocking a debt-limit boost, while 27 percent favored it.

Those results suggest a significant shift from earlier polling, which typically found a large number of Americans opposed to hiking the borrowing limit. A Sept. 13 poll from NBC News and The Wall Street Journal found twice as many Americans opposed a debt limit boost than supported it.

Republicans insist they will have leverage in the debt-ceiling talks with the White House.