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#### Interpretation:

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

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

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

#### Violation:

#### The plan is an implicit delegation of “authority” – must stamp the originating statute to “increase restrictions on”

#### Vote to require a statutory source:

#### Stabilizes topical authority and both restriction mechanisms – best chance of predictable aff limits and complementary neg ground

#### pleas for reasonability just warrant precision – only check on bi-directionality and Commander-in-Chief affs

Colby P. Horowitz 2013 “CREATING A MORE MEANINGFUL ¶ DETENTION STATUTE: LESSONS LEARNED ¶ FROM HEDGES V. OBAMA,” FORDHAM L.R. Vol. 81, http://fordhamlawreview.org/assets/pdfs/Vol\_81/Horowitz\_April.pdf

Thus, there at least two ways to interpret section 1021 under Justice ¶ Jackson’s framework. The government believes that section 1021 places ¶ the executive firmly in Zone 1. It has argued on appeal in Hedges that ¶ section 1021 is “an essentially verbatim affirmation by Congress of the ¶ Executive Branch’s interpretation of the AUMF.”335 This is supported by ¶ the government’s 2009 brief to the D.C. District Court, which is almost ¶ identical to the description of detention authority in section 1021.336 If ¶ section 1021 places the President in Zone 1, he has clear statutory authorization and does not need to rely on his general Commander-in-Chief powers (which courts view more narrowly).337 Additionally, in Zone 1, any ¶ ambiguities or vague terms in the statute might actually expand the President’s authority.338

338. See Chesney, supra note 33, at 792–93 (explaining that some observers view ambiguities in detention statutes as constituting “an implied delegation of authority to the executive to provide whatever further criteria may be required”).

### OLC

#### The Office of Legal Counsel should determine that the President’s war making authority over targeted killing and detention without charge within zones of active hostilities is limited to declared territories. The Office of Legal Counsel should determine that targeted killing and detention without charge outside zones of active hostilities is limited to reviewable operations guided by an individualized threat requirement and procedural safeguards.

#### The Office of Legal Counsel should publicly publish these decisions and the administration’s review policies for those practices.

#### The CP is competitive and solves the case—OLC rulings do not actually remove authority but nevertheless hold binding precedential value on the executive.

Trevor W. Morrison (Professor of Law, Columbia Law School) October 2010. “STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448, Lexis.

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

#### Mandatory publishing requirements prevent OLC deferral to presidential pressure—can be self-imposed—avoids SOP concerns with congressional interference.

Ross L. Weiner, February 2009. JD May 2009 @ George Washington University Law School. “THE OFFICE OF LEGAL COUNSEL AND TORTURE: THE LAW AS BOTH A SWORD AND SHIELD,” THE GEORGE WASHINGTON LAW REVIEW, 77 Geo. Wash. L. Rev. 524, Lexis.

The Torture Memo exposed serious deficiencies in how the OLC operates. For two years, interrogators were given erroneous legal advice regarding torture, with two adverse results. First, American interrogators behaved in ways contrary to traditional American values, possibly leading in part to the Abu Ghraib scandal n147 and to a decline in American reputation around the globe. n148 Second, agents on the [\*549] frontlines were given advice that, if followed, might be the basis for prosecution one day. n149 More importantly, when the Torture Memo was leaked to the public, it exposed the OLC to charges of acting as an enabler to the executive branch. John Yoo, the author of the Torture Memo, was known as "Dr. Yes" for his ability to author memos asserting exactly what the Bush Administration wanted to hear. n150 To ensure that this situation does not repeat itself in the future, it is critical for changes to be implemented at the OLC by mandating publication and increasing oversight.¶ A. Mandated Publishing One explanation for the Torture Memo and its erroneous legal arguments was the OLC authors' belief that the Memo would remain secret forever. When he worked in the OLC, Harold Koh was often told that we should act as if every opinion might be [sic] some day be on the front page of the New York Times. Almost as soon as the [Torture Memo] made it to the front page of the New York Times, the Administration repudiated it, demonstrating how obviously wrong the opinion was. n151 Furthermore, James B. Comey, a Deputy Attorney General in the OLC, told colleagues upon his departure from the OLC that they would all be "ashamed" when the world eventually found out about other opinions that are still classified today on enhanced interrogation techniques. n152 This suggests that OLC lawyers, operating in relative obscurity, felt somewhat protected by the general veil of secrecy surrounding their opinions.¶ [\*550] For many opinions, some of which are already published on the OLC's Web site, n153 this will not be a controversial proposition. Publication has three advantages: (1) accessibility; (2) letting people see the factual predicate on which an opinion is based; and (3) eliminating people's ability to strip an OLC opinion of nuance in favor of saying "OLC says we can do it." n154 Koh provides a telling illustration of the problems associated with the absence of mandated publishing as he found an OLC opinion placed in the Territorial Sea Journal that was critical to a case he was trying on behalf of a group of Haitians seeking to enter the United States. n155 He was incredulous that on a matter "of such consequence," n156 he literally had to be lucky to find the opinion. n157¶ Secrecy in government facilitates abuse, and nowhere is the need for transparency more important than the OLC, whose opinions are binding on the entire executive branch. In a telling example, on April 2, 2008, the Bush Administration declassified a second Torture Memo. n158 In eighty-one pages, John Yoo presented legal arguments that effectively allowed military interrogators carte blanche to abuse prisoners without any fear of prosecution. n159 While the Memo was classified at the "secret" level, it is clear that there was no strategic rationale for classifying it beyond avoiding public scrutiny. n160 According [\*551] to J. William Leonard, the nation's top classification oversight official from 2002-2007, "There is no information contained in this document which gives an advantage to the enemy. The only possible rationale for making it secret was to keep it from the American people." n161¶ To address this problem, the OLC should be required to publish all of its opinions, with a few limited exceptions. John F. Kennedy once said, "The very word 'secrecy' is repugnant in a free and open society." n162 Justice Potter Stewart, in New York Times Co. v. United States, n163 laid out the inherent dangers of secrecy in the realm of foreign affairs: I should suppose that moral, political, and practical considerations would dictate that a very first principle of that wisdom would be an insistence upon avoiding secrecy for its own sake. For when everything is classified, then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless, and to be manipulated by those intent on self-protection or self-promotion. I should suppose, in short, that the hallmark of a truly effective internal security system would be the maximum possible disclosure, recognizing that secrecy can best be preserved only when credibility is truly maintained. n164¶ The proposal to require the OLC to publish its opinions has been advocated by many, including former heads of the OLC. n165 [\*552] ¶ 1. Process for Classification In certain situations, an opinion may have to remain confidential for national security purposes, but mechanisms can be designed to deal with this scenario. First, in order to deem a memorandum classified as a matter of national security, another agency in the executive branch with expertise on the subject should be required to sign off on such a classification. The Torture Memo exposed an instance of the OLC acting secretively not only for national security purposes, but also because it knew the Torture Memo could not withstand scrutiny. n166 Thus, only opinions dealing with operational matters that give aide to the enemy should be classified. Opinions that consist solely of legal reasoning on questions of law clearly would not pass that test.¶ If there is a disagreement between those in the OLC who choose to classify something and those in the other executive agency who believe it should be published, then the decision should be sent back to the OLC to review the potential for publishing a redacted version of the opinion. For example, consider a memo from the OLC on the different interrogation techniques allowable under the law. While it would be harmful for the OLC to publish specific activities, and thus alert the country's enemies as to interrogation tactics, publishing the legal analysis that gives the President this authority would not be harmful. Publishing would restore legitimacy to the work the OLC is doing and help remove the taint the Torture Memo has left on the office.¶ 2. Exceptions There are a few necessary exceptions to a rule requiring publication, and the former OLC attorneys who wrote a series of guidelines for the OLC are clear on them: Ordinarily, OLC should honor a requestor's desire to keep confidential any OLC advice that the proposed executive action would be unlawful, where the requestor then does not take the action. For OLC routinely to release the details of all contemplated action of dubious legality might deter executive branch actors from seeking OLC advice at sufficiently early stages in policy formation. n167 [\*553] This reasoning stems directly from the attorney-client privilege and the need for candor in government. It is imperative that the executive branch seek information on potential action that may or may not be legal (or constitutional), and this type of inquiry should not be discouraged. This exception is only to be applied when the President does not go ahead with the policy in question. If the OLC were to opine that something is illegal or unconstitutional, and the President were to disregard that advice and proceed with the action anyway, this type of opinion should be made public. n168¶ If the OLC tells a President he can ignore a statute, and the President follows that advice, that opinion should be available to the public. One of the foundations of American governance is that nobody is above the law; advice that a statute should not be enforced contradicts this maxim. The Torture Memo asserted that violations of U.S. law would probably be excused by certain defenses, including necessity and self-defense. n169 Additionally, the Torture Memo argued that "Congress can no more interfere with the President's conduct of the interrogation of enemy combatants than it can dictate strategic or tactical decisions on the battlefield." n170 The OLC thus told the President that he does not have to enforce any congressional statutes that infringe on his Commander in Chief power. For both the purposes of good government and accountability, this type of claim should be made in public, rather than in secret, so Americans know how the President is interpreting the laws.¶ 3. Oversight of Secret Opinions Increased oversight at the OLC is most important for opinions that are classified as secret pursuant to the above procedures, and are unlikely to ever be heard in a court of law. According to former OLC attorneys: The absence of a litigation threat signals special need for vigilance: In circumstances in which judicial oversight of executive branch action is unlikely, the President - and by extension [\*554] OLC - has a special obligation to ensure compliance with the law, including respect for the rights of affected individuals and the constitutional allocation of powers. n171 How can oversight be ensured?¶ First, memos that are both secret and unlikely to be heard in court must be reviewed by others with an expertise in the field. In 2002, there were two major issues with the OLC: first, almost nobody outside a group of five attorneys was allowed to read the secret opinions, n172 and second, there was a lack of expertise in the office on matters of national security. n173 As Goldsmith later confessed, "I eventually came to believe that [the immense secrecy surrounding these memoranda] was done [not for confidentiality, but] to control outcomes in the opinions and minimize resistance to them."n174¶ For opinions that are classified as secret, at least one other legal department in the federal government, with a similar level of expertise, should be asked to review a secret opinion in order to take a [\*555] substantive look at the legal work in question. According to Jack Goldsmith, this process was traditionally how things worked; n175 when the Bush Administration started "pushing the envelope," n176 however, nearly all outside opinion was shut out under the guise of preventing leaks. n177 It is now apparent that the concern stemmed more from a fear of objections than from the national security concern of a leak. n178 Based on the declassification of the Torture Memo, along with the subsequent declassification of another memo on torture, n179 there was no national security purpose for keeping the memos secret.¶ The reason an outside review of memos labeled as classified is important is that in times of crisis, proper oversight mechanisms need to be in place. It is in times of emergency when the country is most vulnerable to decisions that it might later regret. n180 Based on the legal reasoning exposed in both the Torture Memo and the released Yoo opinion from March 2003, it is reasonable to surmise that other opinions written in the aftermath of September 11 are similarly flawed. n181 Currently, there are a number of classified memoranda that have been referenced in declassified OLC opinions, but have never been declassified themselves. n182 What these memoranda assert, and whether President Bush decided to follow them, are currently unknown. In a recently declassified opinion, however, there is a footnote indicating that the Fourth Amendment's protection against unreasonable searches and seizures is not applicable to domestic military operations related to the war on terror.n183 Because this would be a novel assertion [\*556] of authority, the American public should be able to evaluate the merits of such a legal argument.¶ Different agencies of government have personnel with different expertise, so it will be incumbent upon those in the OLC to determine which department, and which individual in the department, has the required security clearance and knowledge to review an opinion. Thus, when an opinion has been deemed classified, before it can be forwarded outside of the OLC, it would have to go to another agency for approval.¶ The question that the reviewer should have to answer is whether the work he or she is analyzing is an "accurate and honest appraisal of applicable law." n184 If it is, then there is no problem with the opinion, and the second agency will sign off on it. If it is not, then the reviewer should prepare a minority report. What is most critical is that both the Attorney General and the President - who might not be an attorney - understand exactly what their lawyers are saying. For a controversial decision, it should not be sufficient for someone in the OLC like John Yoo to write an inaccurate legal memo that asserts one thing, while the law and precedent say another, with the eventual decisionmaker - the President - only viewing the flawed opinion. The minority report will serve two purposes: first, it will encourage lawyers to avoid dressing up a shoddy opinion in "legalese" to make it look legitimate when in reality it is not; and second, it will ensure that the opinion truly is a full and fair accounting of the law.¶ The most important by-product from mandated review of secret opinions will be that lawyers in the OLC will no longer be able to hide behind a wall of total confidentiality. n185 Rather than acting as if the OLC is above the law and answerable to no one, the knowledge that every classified opinion will be reviewed by someone with an expertise in the field should give pause to any OLC attorney who lacks independence and serves as a yes-man for the President.¶ [\*557] ¶ B. Mechanisms for Implementing Changes¶ 1. Self-Imposed by Executive The easiest way to implement such a change in OLC requirements would be for the President to impose them on the OLC. The OLC's authority stems from the Attorney General, who has delegated some of his power to the OLC. n186 The Attorney General is in the executive branch, which means that the President has the authority to order these changes.¶ It is unlikely that the executive branch would self-impose constraints on the OLC, because Executives from both parties have historically exhibited a strong desire to protect the levers of power. n187One of the reasons lawyers at the OLC were able to write documents like the Torture Memo without anyone objecting was because the results were in line with what the Bush Administration wanted to hear. n188 Thus, it was unlikely that the Bush Administration would make any changes during its final year in office, and as it turned out, the Bush Administration ended on January 20, 2009, without making any changes.¶ Nevertheless, in light of the OPR's publicly announced investigation of the OLC's conduct, n189 and the release of another John Yoo memorandum on torture, n190 the lack of oversight at the OLC could come to the forefront of the public's attention. n191 Thus, it is possible that through public pressure, President Bush could be persuaded to mandate these changes himself. n192¶ 2. Congressional Mandate Alternatively, Congress could step into the void and legislate. Any potential congressional interference, however, would be fraught with separation of powers concerns, which would have to be dealt with directly. First, the President is entitled to advice from his advisors. n193 Second, a great deal of deference is owed to the President when he is operating in the field of foreign affairs. n194 Any attempt by Congress to limit either of these two powers will most likely be met with resistance. n195

### Politics

#### New sanctions won’t happen now but Obama needs PC to keep it that way – sanctions will kill diplomacy and cause Iranian prolif

Colin H. Kahl, Associate Professor, Georgetown university and Director, Middle East Security Program, Center for a New American Century, “The Danger of New Iran Sanctions,” NATIONAL INTEREST, 12—31—13, <http://nationalinterest.org/commentary/the-danger-new-iran-sanctions-9651>, accessed 1-2-14.

**The Geneva** “interim” **agreement reached in November** between Iran and the so-called P5+1 (the United States, Britain, China, France, Germany, and Russia) **freezes Tehran’s nuclear program in exchange for modest sanctions relief**, with the goal of enabling further talks to comprehensively resolve one of the world's thorniest challenges. **Yet despite the landmark accord, more than two dozen Senators introduced legislation** on December 19 **to impose new oil and financial sanctions** on Iran. The Senate could vote on the measure soon after it returns from recess in January. **Powerful lobby organizations are mobilized in support of the bill, and it could certainly pass**.¶ **The legislation defies a request by** the **Obama** administration **and ten Senate committee chairs to stand down on sanctions while negotiations continue**. It also flies in the face of an unclassified intelligence assessment that new sanctions “would undermine the prospects for a successful comprehensive nuclear agreement with Iran.” Proponents of the bill note that the proposed sanctions would only come into force if Iran violates the Geneva agreement or fails to move toward a final deal, and would not kick in for months. But **the White House warns that enshrining new economic threats in law now runs counter to the spirit of the Geneva pledge of no new sanctions during negotiations, and risks empowering Iranian forces hoping to scuttle nuclear talks**. The legislation also defines congressionally acceptable parameters for a final deal that Iran experts almost universally believe are unachievable, namely the requirement that Iran completely dismantle its uranium enrichment program. For these reasons, **the administration believes the bill represents a poison pill that could kill diplomacy, making a nuclear-armed Iran or war more likely**.

#### **The plan *saps capital* and *causes defections***

Loomis 7 Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### PC is key—it keeps Reid from bringing the bill up for a vote

Kaper 12-6 (Stacy, National Journal, “Reid in Hot Seat on Iran Sanctions” This article appears in the December 6, 2013, edition of NJ Daily. http://www.nationaljournal.com/daily/reid-in-hot-seat-on-iran-sanctions-20131205

Harry Reid is in the hot seat on the question of whether to allow a vote on Iran sanctions legislation, and it will only get hotter when the Senate returns from recess next week.¶ The administration is unleashing a full-court press to sell its interim nuclear deal with Iran, and it has been waging a campaign for months to convince Congress to hold off on any additional sanctions action. But several lawmakers on both sides of the aisle who strongly support Israel insist that it was the pressure of sanctions that brought Iran to the negotiating table on its nuclear-weapons capabilities. They argue the threat of additional sanctions now is necessary to hold Iran's feet to the fire.¶ This all puts Reid in an incredibly tough bind.¶ The Senate majority leader has so far blocked any vote on additional Iran sanctions from coming to the floor. Despite comments that he madebefore the interim agreement was announced that the Senate needs to leave "legislative … options open to act on a new bipartisan sanctions bill in December," he has since hedged, saying the Senate will act "appropriately" and that "if we need stronger sanctions, I am sure we will do that."¶ Senior Republican Senate aides say they don't see signs of Reid capitulating.¶ Many on and off Capitol Hill monitoring the situation closely say they have a hard time imagining Reid would call for a vote on Iran sanctions legislation any time soon.¶ "I believe Senator Reid will try to give the administration the time it needs to sell this deal a little bit more on the Hill," former Reid spokesman Jim Manley said. "His job as leader is to protect the administration's priorities."¶ Danielle Pletka, a vice president for foreign and defense policy studies at the American Enterprise Institute, said Reid might find the pressure from the White House overwhelming.¶ "I believe that Reid's caucus will want a vote, but Reid may well refuse in order to protect the president's desire to have a free hand to warm up with Iran," she said.¶ But it is also unclear how long Reid can resist pressure from his colleagues.

#### Impact is global nuclear war

Press TV 11/13 “Global nuclear conflict between US, Russia, China likely if Iran talks fail”, <http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.¶ “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned. ¶ The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war. ¶ White House press secretary Jay Carney called on Congress to allow more time for diplomacy as US lawmakers are considering tougher sanctions. ¶ "This is a decision to support diplomacy and a possible peaceful resolution to this issue," Carney said. "The American people do not want a march to war." ¶ Meanwhile, US Secretary of State John Kerry is set to meet with the Senate Banking Committee on Wednesday to hold off on more sanctions on the Iranian economy. ¶ State Department spokeswoman Jen Psaki said Kerry "will be clear that putting new sanctions in place would be a mistake." ¶ "While we are still determining if there is a diplomatic path forward, what we are asking for right now is a pause, a temporary pause in sanctions. We are not taking away sanctions. We are not rolling them back," Psaki added.

### Militarism

#### **Asking how the executive should be allowed to conduct war masks the fundamental question of whether war should be allowed at all – ensures a military mentality**

- Accepting that war is inevitable even without realizing it is problematic

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 22-23)

The widespread, unquestioning acceptance of warism and the corresponding reluctance to consider pacifism as a legitimate option make it difficult to propose a genuine consideration of pacifist alternatives. Warism may be held implicitly or explicitly. Held in its implicit form, it does not occur to the warist to challenge the view that war is morally justified; war is taken to be natural and normal. No other way of understanding large-scale human conflict even comes to mind. In this sense warism is like racism, sexism, and homophobia: a prejudicial bias built into conceptions and judgments without the awareness of those assuming it. In its explicit form, warism is openly accepted, articulated, and deliberately chosen as a value judgment on nations in conflict. War may be defended as essential for justice, needed for national security, as “the only thing the enemy understands,” and so on. In both forms warism misguides judgments and institutions by reinforcing the necessity and inevitability of war and precluding alternatives. Whether held implicitly or explicitly, warism obstructs questioning the conceptual framework of the culture. If we assume (without realizing it) that war itself is morally justifiable, our moral considerations of war will be focused on whether a particular war is justified or whether particular acts within a given war are morally acceptable. These are important concerns, but addressing them does not get at the fundamental issue raised by the pacifist: the morality of war as such. In Just and Unjust Wars Michael Walzer explains that “war is always judged twice, first with reference to the reasons states have for fighting, secondly with reference to the means they adopt.”8 The pacifist suggestion is that there is a third judgment of war that must be made prior to the other two: might war, by its very nature, be morally wrong? This issue is considered by Walzer only as an afterthought in an appendix, where it is dismissed as naïve. Perhaps Walzer should not be faulted for this omission, since he defines his task as describing the conventional morality of war and, as has been argued above, conventional morality does take warism for granted. To this extent Walzer is correct. And this is just the point: our warist conceptual frameworks— our warist normative lenses— blind us to the root question. The concern of pacifists is to expose the hidden warist bias and not merely describe cultural values. Pacifists seek to examine cultural values and recommend what they ought to be. This is why the pacifist insists on judging war in itself, a judgment more fundamental than the more limited assessments of the morality of a given war or the morality of specific acts within a particular war.

#### This mindset is important – our consciousness of war guarantees endless violence that ensures planetary destruction and structural violence

* Another impact: freeing ourselves from war = more resources for peace

Lawrence 9 (Grant, “Military Industrial "War" Consciousness Responsible for Economic and Social Collapse,” OEN—OpEdNews, March 27)

As a presidential candidate, [Barack Obama](http://obama.senate.gov/) called [Afghanistan](http://en.wikipedia.org/wiki/War_in_Afghanistan_%282001%E2%80%93present%29) ''the war we must win.'' He was absolutely right. Now it is time to win it... Senators [John McCain](http://www.imdb.com/name/nm0564587/) and Joseph Lieberman [calling](http://www.miamiherald.com/opinion/inbox/story/960269.html) for an expanded war in Afghanistan "How true it is that war can destroy everything of value." Pope Benedict XVI [decrying](http://www.google.com/hostednews/afp/article/ALeqM5iuue8kE-e0lYZVFpt4RlbX4M_IEw) the suffering of Africa Where troops have been quartered, brambles and thorns spring up. In the track of great armies there must follow lean years. Lao Tzu on [War](http://www.sacred-texts.com/tao/salt/salt09.htm) As Americans we are raised on the utility of war to conquer every problem. We have a drug problem so we wage war on it. We have a cancer problem so we wage war on it. We have a crime problem so we wage war on it. Poverty cannot be dealt with but it has to be warred against. Terror is another problem that must be warred against. In the [United States](http://maps.google.com/maps?ll=38.8833333333,-77.0166666667&spn=10.0,10.0&q=38.8833333333,-77.0166666667%20%28United%20States%29&t=h), solutions can only be found in terms of wars. In a society that functions to support a massive military industrial war machine and empire, it is important that the terms promoted support the conditioning of its citizens. We are conditioned to see war as the solution to major social ills and major political disagreements. That way when we see so much of our resources devoted to war then we don't question the utility of it. The term "war" excites mind and body and creates a fear mentality that looks at life in terms of attack. In war, there has to be an attack and a must win attitude to carry us to victory. But is this war mentality working for us? In an age when nearly half of our tax money goes to support the war machine and a good deal of the rest is going to support the elite that control the war machine, we can see that our present war mentality is not working. Our values have been so perverted by our war mentality that we see sex as sinful but killing as entertainment. Our society is dripping violence. The violence is fed by poverty, social injustice, the break down of family and community that also arises from economic injustice, and by the managed media. The cycle of violence that exists in our society exists because it is useful to those that control society. It is easier to sell the war machine when your population is conditioned to violence. Our military industrial consciousness may not be working for nearly all of the life of the planet but it does work for the very few that are the master manipulators of our values and our consciousness. Rupert Murdoch, the media monopoly man that runs the "Fair and Balanced" [Fox Network](http://www.fox.com/), Sky Television, and [News Corp](http://www.newscorp.com/) just to name a few, [had](http://en.wikipedia.org/wiki/Rupert_Murdoch) all of his 175 newspapers editorialize in favor of the [Iraq war](http://en.wikipedia.org/wiki/Iraq_War). Murdoch snickers when [he says](http://www.newscorpse.com/ncWP/?p=341) "we tried" to manipulate public opinion." The Iraq war was a good war to Murdoch [because,](http://www.americanprogress.org/issues/2004/07/b122948.html) "The death toll, certainly of Americans there, by the terms of any previous war are quite minute." But, to the media manipulators, the phony politicos, the military industrial elite, a million dead Iraqis are not to be considered. War is big business and it is supported by a war consciousness that allows it to prosper. That is why more war in Afghanistan, the war on Palestinians, and the other wars around the planet in which the [military industrial complex](http://en.wikipedia.org/wiki/Military-industrial_complex) builds massive wealth and power will continue. The military industrial war mentality is not only killing, maiming, and destroying but it is also contributing to the present social and economic collapse. As mentioned previously, the massive wealth transfer that occurs when the American people give half of their money to support death and destruction is money that could have gone to support a just society. It is no accident that after years of war and preparing for war, our society is crumbling. Science and technological resources along with economic and natural resources have been squandered in the never-ending pursuit of enemies. All of that energy could have been utilized for the good of humanity, ¶ instead of maintaining the power positions of the very few super wealthy. So the suffering that we give is ultimately the suffering we get. Humans want to believe that they can escape the consciousness that they live in. But that consciousness determines what we experience and how we live. As long as we choose to live in "War" in our minds then we will continue to get "War" in our lives. When humanity chooses to wage peace on the world then there will be a flowering of life. But until then we will be forced to live the life our present war consciousness is creating.

#### The alternative must begin in our minds – we need to free ourselves of the presumption towards war and advocate for peace and social justice to stop the flow of militarism that threatens existence

* Democracy itself is the product of searching for peaceful solutions

Demenchonok 9 – Worked as a senior researcher at the Institute of Philosophy of the Russian Academy of Sciences, Moscow, and is currently a Professor of Foreign Languages and Philosophy at Fort Valley State University in Georgia, listed in 2000 Outstanding Scholars of the 21st Century and is a recipient of the Twenty-First Century Award for Achievement in Philosophy from the International Biographical Centre --Edward, Philosophy After Hiroshima: From Power Politics to the Ethics of Nonviolence and Co-Responsibility, February, American Journal of Economics and Sociology, Volume 68, Issue 1, Pages 9-49

Where, then, does the future lie? Unilateralism, hegemonic political anarchy, mass immiseration, ecocide, and global violence—a Hobbesian bellum omnium contra omnes? Or international cooperation, social justice, and genuine collective—political and human—security? Down which path lies cowering, fragile hope?¶ Humanistic thinkers approach these problems from the perspective of their concern about the situation of individuals and the long-range interests of humanity. They examine in depth the root causes of these problems, warning about the consequences of escalation and, at the same time, indicating the prospect of their possible solutions through nonviolent means and a growing global consciousness. Today's world is in desperate need of realistic alternatives to violent conflict. Nonviolent action—properly planned and executed—is a powerful and effective force for political and social change. The ideas of peace and nonviolence, as expressed by Immanuel Kant, Leo Tolstoy, Mahatma Gandhi, Martin Luther King, and many contemporary philosophers—supported by peace and civil rights movements—counter the paralyzing fear with hope and offer a realistic alternative: a rational approach to the solutions to the problems, encouraging people to be the masters of their own destiny.¶ Fortunately, the memory of the tragedies of war and the growing realization of this new existential situation of humanity has awakened the global conscience and generated protest movements demanding necessary changes. During the four decades of the Cold War, which polarized the world, power politics was challenged by the common perspective of humanity, of the supreme value of human life, and the ethics of peace. Thus, in Europe, which suffered from both world wars and totalitarianism, spiritual-intellectual efforts to find solutions to these problems generated ideas of "new thinking," aiming for peace, freedom, and democracy. Today, philosophers, intellectuals, progressive political leaders, and peace-movement activists continue to promote a peaceful alternative. In the asymmetry of power, despite being frustrated by war-prone politics, peaceful projects emerge each time, like a phoenix arising from the ashes, as the only viable alternative for the survival of humanity. The new thinking in philosophy affirms the supreme value of human and nonhuman life, freedom, justice, and the future of human civilization. It asserts that the transcendental task of the survival of humankind and the rest of the biotic community must have an unquestionable primacy in comparison to particular interests of nations, social classes, and so forth. In applying these principles to the nuclear age, it considers a just and lasting peace as a categorical imperative for the survival of humankind, and thus proposes a world free from nuclear weapons and from war and organized violence.44 In tune with the Charter of the United Nations, it calls for the democratization of international relations and for dialogue and cooperation in order to secure peace, human rights, and solutions to global problems. It further calls for the transition toward a cosmopolitan order.¶ The escalating global problems are symptoms of what might be termed a contemporary civilizational disease, developed over the course of centuries, in which techno-economic progress is achieved at the cost of depersonalization and dehumanization. Therefore, the possibility of an effective "treatment" today depends on whether or not humankind will be able to regain its humanity, thus establishing new relations of the individual with himself or herself, with others, and with nature. Hence the need for a new philosophy of humanity and an ethics of nonviolence and planetary co-responsibility to help us make sense not only of our past historical events, but also of the extent, quality, and urgency of our present choices.

### Overreach

**US action irrelevant to international norms on drones – other tech proves**

**Etzioni 13** – professor of IR @ George Washington (Amitai, “The Great Drone Debate”, March/April, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>, CMR)

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage. Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of self constraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology. I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

#### Deterrence checks Indopak – default to empirics

Frohwein 5/7/2013 (2012 graduate of Georgetown University’s Security Studies Program Ashley, “Why Waltz May Have it Right”, https://blogs.commons.georgetown.edu/globalsecuritystudiesreview/2013/05/07/why-waltz-may-get-it-right/

First, her comparison with the Indo-Pakistani conflict does as much to hurt her case as to help it. Since partition in 1947, **India and Pakistan have fought four wars, three major and one minor**. The wars in 1947, 1965, and 1971 resulted in 3,500, 8,000, and nearly 12,000 battle-related deaths, respectively. India then conducted its “peaceful” nuclear test in 1974, followed by tests by both India and Pakistan in 1998. These were followed by the **Kargil** War in 1999, **lasting only a few months** with just over 1,000 battle deaths.[1] **Since this** conflict, **there have been** no large-scale military exchanges between the two sides, despite **ongoing rivalry and crises** such as the 2011 border skirmishes and terrorist attacks in the Indian Parliament in 2001 and in Mumbai in 2008. In times of crisis, **both sides seem able to step** back from the brink.[2] Thus, rather than necessarily escalating conflict through misperception or any other route, it seems that **mutual nuclear possession is concentrating the minds**[3] **of these two states**, as it likewise could vis-à-vis Iran.¶ Second, the empirical record regarding the validity of the stability-instability paradox is inconclusive. While intuitively logical, this argument’s greatest weakness is that many of its applications have been in the context of “enduring rivalries,” where conflict and crisis is more the norm than a deviation from it.[4] In the case of India and Pakistan, it is possible that nuclear weapons have allowed Pakistan to aggress with greater impunity, but it is equally plausible that **this is** simply business as usual**.** Similarly, on the Korean Peninsula, North Korean belligerence and provocation is a constant, not a result of their recent nuclear weapons acquisition, so it is difficult to sort out what exactly is making the difference. Iran would likely be no different, since its inflammatory rhetoric and support of terrorist organizations is a constant phenomenon.

#### No chance it goes nuclear – most qualled ev

Enders 2 (Jan 30, David, Michigan Daily, “Experts say nuclear war still unlikely,” http://www.michigandaily.com/content/experts-say-nuclear-war-still-unlikely, CMR)

\* Ashutosh Varshney – Professor of Political Science and South Asia expert at the University of Michigan

\* Paul Huth – Professor of International Conflict and Security Affairs at the University of Maryland

\* Kenneth Lieberthal – Professor of Political Science at the University of Michigan. Former special assistant to President Clinton at the National Security Council

University political science Prof. Ashutosh **Varshney** becomes animated **when asked about the likelihood of nuclear war between India and Pakistan.¶ "Odds are** close to zero**," Varshney said forcefully**, standing up to pace a little bit in his office. "**The assumption that India and Pakistan cannot manage their nuclear arsenals as well as the U.S.S.R. and U.S. or Russia and China concedes less to the intellect of leaders in both India and Pakistan than would be warranted."¶** The worlds two youngest nuclear powers first tested weapons in 1998, sparking fear of subcontinental nuclear war a fear Varshney finds ridiculous.¶ "**The decision makers are aware of what nuclear weapons are, even if the masses are not," he said.**¶ "Watching **the evening news**, CNN, I think they **have** vastly overstated the threat of nuclear war," political science Prof. Paul **Huth said.¶ Varshney added that there are numerous factors working against the possibility of nuclear war.¶ "India is committed to** a **n**o-**f**irst-**s**trikepolicy**," Varshney said. "It is virtually impossible for Pakistan to** go for a **first strike, because the retaliation would be gravely dangerous."¶** Political science Prof. Kenneth **Lieberthal,** a former special assistant to President Clinton at the National Security Council, **agreed**. "Usually a country that is in the position that **Pakistan** is in **would not shift to a level that would ensure their total destruction,**" Lieberthal said, making note of India"s considerably larger nuclear arsenal.¶ "**American intervention is another reason not to expect nuclear war," Varshney said. "If anything has happened since September 11, it is that** the command control system has strengthened. **The trigger is in very safe hands."**

#### Zero chance the US would shut down special forces

#### Hard power unsustainable

Christopher Layne, Professor, National Security, Texas A&M University, “This Time It’s Real: The End of Unipolarity and *Pax Americana,*”INTERNATIONAL STUDIES QUARTERLY, 2012 http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2478.2011.00704.x/full,

Before the Great Recession’s foreshocks in fall 2007, most American security studies scholars believed that unipolarity—and perforce American hegemony—would be enduring features of international politics far into the future. However, in the Great Recession’s aftermath, it is apparent that much has changed since 2007. Predictions of continuing unipolarity have been superseded by premonitions of American decline and geopolitical transformation. The Great Recession has had a two-fold impact. First, it highlighted the shift of global wealth—and power—from West to East, a trend illustrated by China’s breathtakingly rapid rise to great power status. Second, it has raised doubts about the robustness of US primacy’s economic and financial underpinnings. This article argues that the unipolar moment is over, and the Pax Americana—the era of American ascendancy in international politics that began in 1945—is fast winding down. This article challenges the conventional wisdom among International Relations/Security Studies scholars on three counts. First, it shows that contrary to the claims of unipolar stability theorists, the distribution of power in the international system no longer is unipolar. Second, this article revisits the 1980s’ debate about American decline and demonstrates that the Great Recession has vindicated the so-called declinists of that decade. Finally, this article takes on the institutional lock-in argument, which holds that by strengthening the Pax Americana’s legacy institutions, the United States can perpetuate the essential elements of the international order it constructed following World War II even as the material foundations of American primacy erode.

#### Power projection fails

**Cascio** **7**—degrees in history and pol sci (Jamais, 5/2, Lost Hegemon (pt 2): The End of Conventional War, http://www.openthefuture.com/2007/05/the\_lost\_hegemon\_pt\_2\_the\_end.html, AG)

Few would dispute that the American military is, far and away, the most powerful conventional armed force on the planet, even as depleted as it is by the Iraq war. At the same time, few would dispute that this military force is, and by all signs will continue to be, insufficient to quell the insurgency in Iraq. While this particular result has dramatic implications for the global position of the US, as well as for the political and economic future of the region (and the world), the larger meaning of this conflict is only beginning to become clear: conventional militaries, as a means of compelling a desired behavior on the part of a national populace, have become obsolete. The question now is how long it will take political leaders to recognize this fact, and adapt to it. The reasons for this obsolescence are clear: conventional military forces appear to be unable to defeat a networked insurgency, which combines the information age's distributed communication and rapid learning with the traditional guerilla's invisibility (by being indistinguishable from the populace) and low support needs. It's not just the American experience in Iraq (and, not as widely discussed, Afghanistan) that tells us this; Israel's latest war in Lebanon leads us to the same conclusion, and even the Soviet Union's experience in Afghanistan and America's war in Vietnam underline this same point. Insurgencies have always been hard to defeat with conventional forces, but the "open source warfare" model, where tactics can be learned, tested and communicated both formally and informally across a distributed network of guerillas, poses an effectively impossible challenge for conventional militaries.

### Allied Coop

#### NATO has seriously not done shit since the end of the Cold War – ask yourself where was NATO during Chechnya instability, Or the Georgia/Russia conflict, Or the Greece economic collapse, Or terrorism in Europe

#### Common sense slays their impact – NATO is obsolete, their ev is PR

Alexander Baron, November 2, 2013. “Op-Ed: NATO and the Disposable Male,”

http://digitaljournal.com/article/361377

The original purpose of NATO is now somewhat obsolete, with the collapse of the Soviet Empire under its own weight and Russia now being in some senses more free than many Western countries, it could be scaled down, but that seldom happens with quangos, NGOs or international bodies of this nature.¶ Next year, NATO will be holding a major conference in the UK, at Newport, Gwent, and the Stop-the-War Coalition will be opposing it. According to their latest mailing:¶ "NATO has been at the forefront of disastrous wars in Afghanistan and Libya and at the centre of the planned intervention in Syria and the expansion of its nuclear armed bases has a destabilising impact from Eastern Europe to Central Asia.¶ Our protests in Wales next year will be expressing the point of view of the vast majority of people who want an end to these foreign wars and to the massive arms spending that goes with them."¶ That sounds very reasonable, although NATO may not think so. Like most big organisations, NATO produces a fair amount of PR material and has its own channel on YouTube.

#### No strategic hit – America has always prepared for NATO decline because NATO is always on the brink

Christopher Layne, visiting fellow in foreign policy studies at the Cato Institute, “Cato Handbook on Policy” 6th edition, 2005. Chapter 53: Transatlantic Relations. <http://www.cato.org/pubs/handbook/hb109/hb\_109-53.pdf>

Since its inception, NATO—and the transatlantic relationship gener- ally—has always been, in Henry Kissinger’s apt phrase, a ‘‘troubled partnership.’’ NATO has been strained almost to the breaking point by serious crises, including Suez (1956), French president Charles de Gaulle’s challenge to U.S. leadership of the alliance (1958–66), Vietnam, U.S–West European differences over de ́tente with the Soviet Union (during the 1970s), and the deployment of Intermediate Range Nuclear Forces (in the early to mid 1980s). Reflecting the stress those crises have placed on the alliance, predictions of an impending transatlantic divorce—which intensified following the Cold War’s end—long have been a staple of the American foreign policy debate.

#### Lack of public backing foils EU efforts – plan can’t reverse, larger international role trades off with creating sustainable support

Shada Islam, 12-28-2013. http://www.dawn.com/news/1076841/decline-in-support-for-the-european-union

Call it one of life’s ironies: anti-government protesters in Ukraine may be clamouring to join the European Union (EU), but support for the EU is declining steadily among many of its 500 million citizens. Lack of public backing for the “European project” has long worried policymakers. With elections to the European Parliament — the EU’s only democratically-elected institution — set to take place in May 2014, the fretting has reached crisis proportions. The EU bigwigs are right to be concerned. Voter turn-out in the parliamentary polls is expected to be low — and those who do decide to cast their ballots are likely to do so in favour of anti-European and populist parties. Nobody is sure if the trend can be reversed. Recent opinion polls show that the number of Europeans who distrust the EU has doubled over the past six years to a record high, with debt-racked Greeks and Cypriots having the least faith in the bloc. Sixty per cent of Europeans “tended not to trust the EU”, according to the Euro barometer survey, compared to the 32 per cent level of distrust reported in early 2007 before the onset of the 2008/2009 global financial meltdown and the ensuing euro zone debt crisis. Reasons for Europeans’ disenchantment with an organisation that was awarded the 2013 Nobel Peace Prize for its contribution to democracy are not hard to come by. An economic crisis, record unemployment and five Eurozone bailouts have taken their toll on the EU’s standing. The policies of austerity adopted by Eurozone governments have resulted in record levels of unemployment, especially among young people. This, not surprisingly, is aggravating Europe’s mood of pessimism. Eurosceptic fervour may be highest in Britain (Prime Minister David Cameron has proposed Britain hold a vote by 2017 on whether to leave) but support for the EU is also falling in traditionally pro-European states such as Spain and Portugal. In fact, almost half of all Europeans are believed to pessimistic about the future of the 28-nation bloc. Many fear that this grim mood will encourage voters to slam mainstream political parties and elect the more extreme EU-phobic and anti-immigrant groups whose popularity has been on the rise for several years, prompting European Commission President José Manuel Barroso to warn of “political extremes and populism tearing apart the political support and the social fabric”. But it will take more than nice speeches to get Europeans to the ballot boxes in May. Turnout for the EU election has been declining since the Parliament was first elected in 1979, and hit its lowest point in 2009, when only 43 per cent of Europeans went to cast their ballot. There is hope that new rules under which European political parties have the power to nominate a candidate for European Commission president — a post that was in the past filled by a person hand-picked by EU leaders — will generate some voter excitement. The general sentiment is, however, that the elections will see an increase in the number of radical nationalist and anti-EU protest parties elected to the parliament.Some analysts say there could be a protest vote of up to 30 per cent, meaning up to 250 of the 751 seats in parliament being taken by candidates from non-mainstream parties on the far-left or far-right. Such a large protest vote could lead to serious disruptions in parliament, making it much harder to forge a majority on critical legislation, even if the protest candidates were of widely divergent views and not united. Others argue that the anti-European vote, while substantial, will be more contained, and fears of a vast surge in support for the far-right across the 28 countries may be overstated. The conservatives (European Peoples Party) are expected to remain the leading party, although they could lose around 40-50 seats. The Socialists may gain a fair number of seats and solidify their position as the second-largest presence across Europe. The key question is where that leaves the ‘non-mainstream’ groups — the far-right and far-left parties that are not part of the traditional five or so largest parliamentary blocs. Recent polls suggest that there may be a raw ‘protest’ element across the political spectrum of up to 150 seats — potentially the third-largest presence in parliament but not a coordinated one or one that agrees on many policies. As a result, the three biggest blocs — the conservatives, socialists and liberals, will have to overcome their traditional differences and coordinate more closely on legislation. While the upcoming elections are on everybody’s mind at the moment, the EU will, in fact, undergo a more far-reaching “leadership change” with the current heads of the European Commission, European Council and the “high representative” for foreign and security policy set to be replaced. For most of 2014, therefore, the EU will seek to juggle a hectic domestic agenda with demands for an expanded international role.

#### Regionalism coming now – best model, no big war – locally activates the aff warrants for cooperation solving warming

Krishnan Srinivasan, "International Conflict and Cooperation in the 21st Century," THE ROUND TABLE v. 98 n. 400, 2--09, pp. 37-47.

The new world order of the ﬁrst half of the present century will be one of peaceful mutual accommodation between the big powers located in the East and West, North and South. The priority for these powers will be for economic progress and regional order, with defence expenditure being used to build technological capacity for deterrence against the other big powers and as an enabler for their self-appointed but globally recognized role as regional enforcers. In this neo-Hobbesian world system, the lesser states will come to their own bilateral arrangements with the local regional hegemon upon whom they will be dependent not only for their security but for economic, technical and trading facilitation. Some of these lesser entities will enjoy economic prosperity, depending on their ability to maintain internal cohesion, to turn globalization to their advantage, and to control the socio-economic consequences of climate change, but they will not be able to mount a challenge to the hierarchical nature of international society. They will have far greater recourse to the United Nations than the major powers, who will prefer to apply unilateral methods with the connivance and consent of their peers. The debate between Westphalian national sovereignty and the right to intervene to breach the sovereignty of other states on the grounds of preventing threats to international peace and security will not be resolved. Political and economic inequality between nations will be drawn in ever sharper focus. Regional institutions will be dominated by the local big power. Reform of the United Nations will be incomplete and unappealing to the vast majority of member states. The world’s hegemonic powers will lose faith in the Security Council as an effective mechanism to deliberate issues of peace and security. World bodies will be used for discussion of global issues such as the environment and climate change, pandemic disease, energy and food supplies, and development, but resulting action will primarily devolve on the big powers in the affected regions. This will particularly be the case in the realm of peace and security in which only the regional hegemon will have the means, the will and the obligation, for the sake of its own status and security, to ensure resolution or retribution as each case may demand. Even in a globalized world, regional and local action will be the prime necessity and such action will be left to the power best equipped to understand the particular circumstances, select the appropriate remedy and execute the action required to administer it. Conﬂict will be contained and localized. There will be no menace of war on a world-wide scale and little fear of international terrorism. Private-enterprise terrorist actions will continue to manifest political, social and economic frustrations, but they will be parochial, ineffective and not state-sponsored. There will be far less invocation of human rights in international politics, since these will be identiﬁed with a western agenda and western civilization: there will be an equal recognition of community rights and societal values associated with Eastern and other traditions. Chinese artists, Indian entrepreneurs, Russian actors, Iranian chefs, South African song-writers and Brazilian designers will be household names; models on the fashion cat-walk and sporting teams from all major countries will be distinctly multi-racial, reﬂecting the immigration to, but also the purchasing power of, the new major powers. National populations will show evidence of mixed race more than ever before in history. Climate change will be an acknowledged global challenge and all countries, led by the regional hegemons, will undertake binding restraints on carbon emissions. The world will become acutely conscious of the essentiality of access to fresh water. The pace of technological innovation will accelerate at dizzying speed, further accentuating inequalities. There will be very rapid steps taken to develop alternative sources of energy in the face of dwindling and costly oil supplies. Western industrialized nations, to remain competitive, will vacate vast areas of traditional manufacturing in favour of new technologies and green engineering. The world will be a safer and stable place until one of the hegemons eventually develops an obvious ascendancy ﬁrst regionally, then continentally and ﬁnally globally over all the others.

#### Warming causes extinction through environmental breakdown

Ronnie Cummins and Will Allen, Organic Consumers Association, "Climate Catastrophe: Surviving the 21st Century," 2--14--10, http://www.commondreams.org/view/2010/02/14-6

The hour is late. Leading climate scientists such as James Hansen are literally shouting at the top of their lungs that the world needs to reduce emissions by 20-40% as soon as possible, and 80-90% by the year 2050, if we are to avoid climate chaos, crop failures, endless wars, melting of the polar icecaps, and a disastrous rise in ocean levels. Either we radically reduce CO2 and carbon dioxide equivalent (CO2e, which includes all GHGs, not just CO2) pollutants (currently at 390 parts per million and rising 2 ppm per year) to 350 ppm, including agriculture-derived methane and nitrous oxide pollution, or else survival for the present and future generations is in jeopardy. As scientists warned at Copenhagen, business as usual and a corresponding 7-8.6 degree Fahrenheit rise in global temperatures means that the carrying capacity of the Earth in 2100 will be reduced to one billion people. Under this hellish scenario,billions will die of thirst, cold, heat, disease, war, and starvation.

#### Effective diplomacy and legitimacy are PARALLEL – U.S. legitimacy failure preserves the trend toward regionalism – plan can’t create functional diplomacy, America just gets soft-balanced

Michael J. Mazarr, Professor, National Security Strategy, U.S. National War College, "The Risks of Ignoring Strategic Insolvency," WASHINGTON QUARTERLY v. 35 n. 4, Fall 2012, p. 14-15.

Diplomacy increasingly fails. A parallel risk has to do with the ebbing force of U.S. diplomacy and influence. International power is grounded in legitimacy, and in many ways it is precisely the legitimacy of the leading power’s global posture that is under assault as its posture comes into question. Historically, rising challengers gradually stop respecting the hegemon’s right to lead, and they begin to make choices on behalf of the international community, in part due to strategies consciously designed to frustrate the leading power’s designs. Germany, under Bismarck and after, is one example: It aspired to unification and to its ‘‘rightful place’’ as a leading European power as its power and influence accumulated, its willingness to accept the inherent legitimacy of the existing order as defined by other states, and the validity and force of their security paradigms, declined proportionately. At nearly all points in this trajectory, German leaders did not seek to depose the international system, but to crowd into its leadership ranks, to mute the voices of others relative to its own influence, and to modify rather than abolish rules.¶ We begin to see this pattern today with regard to many emerging powers, but especially of course, China’s posture toward the United States.31 As was predicted and expected in the post-Cold War context of growing regional power centers, the legitimacy of a system dominated by the United States is coming under increasing challenge. More states (and, increasingly, non-state actors) want to share in setting rules and norms and dictating outcomes.¶ The obvious and inevitable result has been to reduce the effectiveness of U.S. diplomacy. While measuring the relative success of a major power’s diplomacy over time is a chancy business (and while Washington continues to have success on many fronts), the current trajectory is producing a global system much less subject to the power of U.S. diplomacy and other forms of influence. Harvard’s Stephen Walt catalogues the enormous strengths of the U.S. position during and after the Cold War, and compares that to recent evidence of the emerging limits of U.S. power. Such evidence includes Turkey’s unwillingness to support U.S. deployments in Iraq, the failure to impose U.S. will or order in Iraq or Afghanistan, failures of nonproliferation in North Korea and Iran, the Arab Spring’s challenges to long-standing U.S. client rulers, and more.32 As emerging powers become more focused on their own interests and goals, their domestic dynamics will become ever more self-directed and less subject to manipulation from Washington, a trend evident in a number of major recent elections.¶ Washington will still enjoy substantial influence, and many states will welcome (openly or grudgingly) a U.S. leadership role. But without revising the U.S. posture, the gap between U.S. ambitions and capabilities will only grow. Continually trying to do too much will create more risk of demands unmet, requests unfulfilled, and a growing sense of the absurdity of the U.S. posture. Such a course risks crisis and conflict. Similarly, doubt in the threats and promises underpinning an unviable U.S. security posture risks conflict: U.S. officials will press into situations assuming that their diplomacy will be capable of achieving certain outcomes and will make demands and lay out ultimatums on that basis only to find that their influence cannot achieve the desired goals, and they must escalate to harsher measures. The alternative is to shift to a lesser role with more limited ambitions and more sustainable legitimacy.

# 2NC

## CP

### 2nc solvency – binding

#### OLC opinions are presumptively binding and solve the case

Trevor Morrison 11, Professor of Law at Columbia Law School, “LIBYA, ‘HOSTILITIES,’ THE OFFICE OF LEGAL COUNSEL, AND THE PROCESS OF EXECUTIVE BRANCH LEGAL INTERPRETATION,” Harvard Law Review Forum Vol.124:42, http://www.harvardlawreview.org/media/pdf/vol124\_forum\_morrison.pdf

Deeply rooted traditions treat the Justice Department’s Office of Legal Counsel (OLC) as the most important source of legal advice wit h- in the executive branch. A number of important norms guide the provision and handling of that advice. OLC bases its answers on its best view of the law, not merely its sense of what is plausible or arguable. 6 To ensure that it takes adequate account of competing perspectives within the executive branch, it typically requests and fully considers the views of other affected agencies before answering the questions put to it. Critically, once OLC arrives at an answer, it is treated as binding within the executive branch unless overruled by the Attorney General or the President. That power to overrule, moreover, is wielded extremely rarely — virtually never. As a result of these and related norms, and in spite of episodes like the notorious “torture memos,” OLC has earned a well-deserved reputation for providing credible, authoritative, thorough and objective legal analysis. The White House is one of the main beneficiaries of that reputation. When OLC concludes that a government action is lawful, its conclusion carries a legitimacy that other executive offices cannot so readily provide. That legitimacy is a function of OLC’s deep traditions and unique place within the executive branch. Other executive offices — be they agency general counsels or the White House Counsel’s Office — do not have decades-long traditions of providing legal advice based on their best view of the law after fully considering the competing positions; they have not generated bodies of authoritative precedents to inform and constrain their work; and they do not issue legal opinions that, whether or not they favor the President , are treated as presumptively binding within the executive branch. (Nor should those other offices mimic OLC; that is not their job.) Because the value of a favorable legal opinion from OLC is tied inextricably to these aspects of its work, each successive presidential administration has a strong incentive to respect and preserve them.

#### The CP is a binding constitutional decision

Dellinger, Assistant Attorney General ’93-’96, et al, 2004

(Walter E. & Dawn Johnsen, Acting Assistant Attorney General 1997-98; Deputy AAG 1993-97 & Randolph Moss, Assistant Attorney General 2000-01, Acting 1998-2000; Deputy AAG 1996-98 & Christopher Schroeder, Acting Assistant Attorney General 1997; Deputy AAG 1994-96 & Joseph R. Guerra, Deputy Assistant Attorney General 1999-2001 & [\*1611] Beth Nolan, Deputy Assistant Attorney General 1996-99; Attorney Advisor 1981-85 & Todd Peterson, Deputy Assistant Attorney General 1997-99; Attorney Advisor 1982-85 & Cornelia T.L. Pillard, Deputy Assistant Attorney General 1998-2000 & H. Jefferson Powell, Deputy Assistant Attorney General and Consultant 1993-2000 & Teresa Wynn Roseborough, Deputy Assistant Attorney General 1994-1996 & Richard Shiffrin, Deputy Assistant Attorney General 1993-97 & William Michael Treanor, Deputy Assistant Attorney General 1998-2001 & David Barron, Attorney Advisor 1996-99 & Stuart Benjamin, Attorney Advisor 1992-1995 & Lisa Brown, Attorney Advisor 1996-97 & Pamela Harris, Attorney Advisor 1993-96 & Neil Kinkopf, Attorney Advisor 1993-97 & Martin Lederman, Attorney Advisor 1994-2002 & Michael Small, Attorney Advisor 1993-96, Appendix to “The Role of Institutional Context in Constitutional Law: Faithfully Executing the Laws: Internal Legal Constraints on Executive Power,” 54 UCLA L. Rev. 1559, Lexis)

The Office of Legal Counsel (OLC) is the Department of Justice component to which the Attorney General has delegated the function of providing legal advice to **guide the actions of the President and the agencies of the executive branch**. **OLC's legal determinations are** considered **binding on the executive branch**, subject to the supervision of the Attorney General and the ultimate authority of the President. From the outset of our constitutional system, Presidents have recognized that compliance with their constitutional obligation to act lawfully requires a reliable source of legal advice. In 1793, Secretary of State Thomas Jefferson, writing on behalf of President Washington, requested the Supreme Court's advice regarding the United States' treaty obligations with regard to the war between Great Britain and France. The Supreme Court declined the request, in important measure on the grounds that **the Constitution vests responsibility for** such **legal determinations within the executive branch itself**: "The three departments of government ... being in certain respects checks upon each other, and our being judges of a court in the last resort, are considerations which afford strong arguments against the propriety of our extrajudicially deciding the questions alluded to, especially as the power given by the Constitution to the President, of calling on the heads of departments for opinions seems to have been purposely as well as expressly united to the executive departments." Letter from John Jay to George Washington, August 8, 1793, quoted in 4 The Founders' Constitution 258 (Philip B. Kurland & Ralph Lerner, eds. 1987).¶ From the Washington Administration through the present, Attorneys General, and in recent decades the Office of Legal Counsel, have served as the source of legal determinations regarding the executive's legal obligations and authorities. The resulting body of law, much of which is published in volumes entitled Opinions of the Attorney General and Opinions of the Office of Legal Counsel, offers powerful testimony to the importance of the rule-of-law values that President Washington sought to secure and to the Department of Justice's profound tradition of respect for the rule of law. Administrations of both political parties [\*1604] have maintained this tradition, which reflects a dedication to the rule of law that is as significant and as important to the country as that shown by our courts. As a practical matter, the responsibility for preserving this tradition cannot rest with OLC alone. It is incumbent upon the Attorney General and the President to ensure that OLC's advice is sought on important and close legal questions and that the advice given reflects the best executive branch traditions. The principles set forth in this document are based in large part on the longstanding practices of the Attorney General and the Office of Legal Counsel, across time and administrations.

### A2 CP Links to Politics

#### Mandatory disclosure doesn’t link either --- changes in agency design are not as controversial as specific policies because of a lack of interest groups and constituency effect.

Neal Kumar Katyal, 2006. Professor of Law @ Georgetown University. “Internal Separation of Powers: Checking Today's Most Dangerous Branch from Within,” Yale Law Journal 115.9, The Most Dangerous Branch? Mayors, Governors, Presidents, and the Rule of Law: A Symposium on Executive Power (2006), pp. 2314-2349.

Before getting into the substance of the proposals, it is worth taking up a criticism that might be present off the bat. Aren't all proposals for bureaucratic reform bedeviled by the very forces that promote legislative inertia? If Congress can't be motivated to regulate any particular aspect of the legal war on terror, then how can it be expected to regulate anything more far-reaching? The answer lies in the fact that sometimes broad design choices are easier to impose by fiat than are specific policies.23 ¶ Any given policy proposal can get mired in a competition of special interests; indeed, that danger leads many to prefer executive action. Institutional design changes differ from these specific policy proposals because they cut across a plethora of interest groups and because the effects on constituencies are harder to assess due to the multiplicity of changes. The benefits of faction that Madison discussed in The Federalist No. 51 therefore arise; multitudes of interest groups find things to embrace in the system change. It is therefore not surprising that at the same time that Congress dropped the ball overseeing the legal war on terror it enacted the most sweeping set of changes to the executive branch in a half-century in the form of the Homeland Security Act of 2002.4 Indeed, as we shall see, that Act provides an object lesson: Design matters. And by altering bureaucratic arrangements, stronger internal checks can emerge

#### Executive orders don’t require political capital --- bypasses legislative process.

Benjamin Sovacool and Kelly Sovacool, 2009. PhD, Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization; and Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of Singapore. “Preventing National Electricity-Water Crisis Areas in the United States,” Columbia Journal of Environmental Law , 34 Colum. J. Envtl. L. 333.

Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails. 292 Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September 11, 2001 attacks on the Pentagon and World Trade Center, for instance, the Bush Administration almost immediately passed Executive Orders forcing airlines to reinforce cockpit doors and freezing the U.S. based assets of individuals and organizations involved with terrorist groups. 293 These actions took Congress nearly four months to debate and subsequently endorse with legislation. Executive Orders therefore enable presidents to rapidly change law without having to wait for congressional action or agency regulatory rulemakin

## K

### FW---2NC Top-Shelf

#### The role of the judge should be to guide students toward ethically constructing advocacies – this means debate should focus on how we think about problems and not just the particular policy, so you should look at systems of warism versus pacificism and not the singular event of their impact scenarios – fiat isn’t real and we’re not policymakers – the only thing that matters is the value of our scholarship and the ability to translate that into political activity – and deprioritize issues of link uniqueness and transitions war – our link arguments prove there’s a larger set of social relations the plan creates and the standpoints we take in relation to that are important

Bleiker 3 Roland, Professor of International Relations, University of Queensland “Discourse and Human Agency” Contemporary Political Theory. Avenel: Mar 2003.Vol. 2, Iss. 1;  pg. 25

Confronting the difficulties that arise with this dualistic dilemma, I have sought to advance a positive concept of human agency that is neither grounded in a stable essence nor dependent upon a presupposed notion of the subject. The ensuing journey has taken me, painted in very broad strokes, along the following circular trajectory of revealing and concealing: discourses are powerful forms of domination. They frame the parameters of thinking processes. They shape political and social interactions. Yet, discourses are not invincible. They may be thin. They may contain cracks. By moving the gaze from epistemological to ontological spheres, one can explore ways in which individuals use these cracks to escape aspects of the discursive order. To recognize the potential for human agency that opens up as a result of this process, one needs to shift foci again, this time from concerns with Being to an inquiry into tactical behaviours. Moving between various hyphenated identities, individuals use ensuing mobile subjectivities to engage in daily acts of dissent, which gradually transform societal values. Over an extended period of time, such tactical expressions of human agency gradually transform societal values. By returning to epistemological levels, one can then conceptualize how these transformed discursive practices engender processes of social change. **I have used everyday forms of resistance to illustrate how discourses not only** frame **and** subjugate **our thoughts and behaviour, but also offer possibilities for human agency. Needless to say, discursive dissent is not the only practice of resistance that can exert human agency. There are many political actions that seek** immediate changes **in policy or institutional structures, rather than 'mere' shifts in societal consciousness. Although some of these actions undoubtedly achieve results, they are often not as potent as they seem. Or, rather, their** enduring effect **may well be primarily discursive, rather than institutional.** Nietzsche (1982b, 243) already knew that **the greatest events 'are not our loudest but our stillest hours.' This is why he stressed that the world revolves 'not around the inventors of new noise, but around** the inventors of new values.' **And this is why, for Foucault too, the** crucial site **for political investigations are** not institutions**, even though they are often the place where power is inscribed and crystallized. The fundamental point of anchorage of power relations, Foucault claims, is always located** outside institutions**, deeply entrenched within the social nexus. Hence,** instead of looking at power from the vantage point of institutions, one must analyse institutions from the standpoint of power relations (Foucault, 1982, 219-222).

**AT: Perm**

#### Praxis is key – the permutation is politically and intellectually incoherent since it foregoes an unconditional commitment to peace – combining our strategies ensures cooption

Megroan 8 (Nick, Department of Geography, University of Newcastle, UK, “Militarism, Realism, Just War, or Nonviolence?”, Jan 1, Geopolitics, EBSCO, CMR)

**Every student** of the relations between states, **who** also **holds that** scholarly engagement **must** not merely **be theoretical and empirical but also** political **and** moral**, cannot avoid facing the question: in what circumstances, if at all, should a state be considered right in making or joining war?** The argument of this paper is simply that critical geopolitics has not properly grappled with this question in a systematic and consistent way. By virtue of opposition to certain wars but advocacy of others, by implicit use of just war categories and language in moral reasoning, it is de facto operating within the parameters **of** a version of **just war theory.** However, because this appro- priation is not made explicit – indeed, because just war theory is at times summarily dismissed – its appropriation is partial. This selective appropriat ion is problematic. Whilst critical geopolitical analyses of individual wars might be insightful and compelling, **the bigger picture may be one of** incoherence and subjectivity. The purpose of theory selectively deployed becomes confusing, critique may be turned in on itself, there is a lack of clarity and rigour in moral reasoning despite superficial rhetorical appeals to morality, and the political intent of the project becomes unclear and even co-optable **to the service of neoconservatism**. This partial and contradictory appropriation of just war theory is also intellectually unsatisfying, **and** limits the potential of critical geopolitics **to be taken seriously outside** a **small, self-selecting readership**. My objection thus far is not to just war theory per se. It provides a framework for reasoning about warfare that regards it as an evil to be deployed in only exceptional circumstances, and (despite its name), its pre- sumption is against violence. We liv e in a messy and complicated and vio- lent world. Just war theory’s insistence, against realism and militarism, that military violence is not beyond the le gitimate sphere of moral reasoning is important, and the arguments for the occasional and limited use of force to restore peace and rectify injustice are strong ones. If critical geopolitics wishes to locate itself explicitly in this school of thought, it will find compel- ling reasons for doing so and many allies already there. By this process, it will certainly refine and advance the project (of critical geopolitics) with an injection of intellectual rigour. As I have suggested with reference to Toal’s critique of the 1991 US war on Iraq as being about American identity, it could in turn also make an original contribution to thought about the category of just intention . However, whilst recognising its pa cific intent, **I remain** personally **unconvinced by just war theory** as used either consistently by theorists and jurists, or partially as in critical geopolit ics. Critical geopolitics, as I read it, is not simply about exposing the power-knowledge relationships at the heart of geopolitical reasoning, 91 and denaturalising the global order by portray- ing it as socially and historically constructed 92 through an “examination of the geographical assumpti ons, designations, and understandings that enter into the making of world politics” 93 and how places and people are stitched together to narrate and explain events. 94 It is all of these, but it is more: **a political project committed**, as Dalby puts it, **to challenging the specifications of politics and dangers used** to justify violence MARK. 95 **Nonviolence, as a** positive political **method and** also a **vision** of peac e and justice that explicitly **eschews the resort to force,** is a project that has only recently begun to be studied and theorised in a system atic manner, and ha s already yielded many promising results. 96 Personally, like a growing number of people, I am persuaded by the case for a Christian praxis of nonviolence. 97 Geopolitics has a long and bloody history of providing arguments for war 98 – critical geopolitics should reject the temptation to provide more, and place its capa- bilities and insights in the service of this exciting relatively new and under- resourced proj ect, not just war theory, realism, or militarism. In his history of twentieth-century geopolitical thought, Polelle observed that it “led its believers to be resigned to the necessity of violent international conflict”. 99 It would be deeply ironic if critical geopolitics we re to make the same mis- take in the twenty-first.

## Overreach

**AT: Modeling/Arms Race – 2NC US Not Key**

#### US drone usage legal – no modeling – and restraint wouldn’t solve

Anderson 10/9/13 – law prof @ Washington College of Law, visiting fellow @ Hoover Institution, Senior Fellow @ Brookings (Kenneth, “Drones Are the Future for Dull or Dangerous Missions”, http://www.lawfareblog.com/2013/10/drones-are-the-future-for-dull-or-dangerous-missions/ , CMR)

Meanwhile, however, campaigning organizations – in the US and elsewhere, but strongest by far in their impact in Europe – darkly warn that as weaponized drones spread, the US will reap what it has sown through its targeted killing policies, and come to regret its arrogant exercise of special power privileges. This is not a persuasive claim, I would say, or an accurate characterization of the US position. The US does not believe that it is merely availing itself of a technology to which, for a time, it has held special access, and law must conform to its special privileges. On the contrary, the US sees its use of drone warfare and targeted killing as both lawful and good policy, and this in large part because the US sees the situation as an armed conflict and legally constrained existing law of targeting. One might disagree – as many do, including some European allies, campaigning groups, and the ICRC – with parts of the US interpretation of those rules, particularly who can be targeted and when, but it is a legally defensible, articulated position that adheres to (and develops in the context of new technology) long-held US positions on targeting law. With respect to others such as China, Russia, or others, however, the US is not claiming special privileges of power here – “just because we can.” The US government appears perfectly happy to say that if other governments actually follow these targeting standards, it does not have a problem as a matter of the laws of war – including China or other potential state adversaries. The possibility that China and other states would somehow not have marched ahead to develop so important a civilian (and not just military), technology as drone aircraft just because the United States somehow did not do so is far-fetched at best. (I leave for another post the question of whether possible drone military encounters over islands contested between China and Japan are better or worse than the alternative encounters.) It is finally hard to say, save by speculation, how much campaigning efforts to stigmatize a weapon and governments that acquire it actually impact government policies – especially when the technology is going to be transformative in so many ways that military uses will be only one part. Still, I would guess that the impact in Europe has been to slow down – not stop, but slow, and possibly fatally so, from a “business model” standpoint – the European defense establishment’s development of military drone technology. In that sense it is speculative, yes, but an important missing link in the account of the business of European military drones that the WSJ article describes. But the result today is exactly what the article describes: from the standpoint of having a home-grown military drone technological base, as well as actually possessing drones and especially the latest technologies, Europe is left in the position of playing catchup.

### Defense – Stats/Data 2nc

#### The best statistical evidence proves no hard power impact – prefer statistics because its easy to write overly rhetorical cards but hard to cite facts

Montiero 12 [Nuno P. Monteiro is Assistant Professor of Political Science at Yale University, “Unrest Assured: Why Unipolarity is Not Peaceful”, International Security, Vol. 36, No. 3 (Winter 2011/12), pp. 9–40]

Wohlforth claims not only that the unipole can stave off challenges and preclude major power rivalries, but also that it is able to prevent conflicts among other states and create incentives for them to side with it. 39 The unipole’s advantage is so great that it can settle any quarrel in which it intervenes. As Wohlforth writes, “For as long as unipolarity obtains....second-tier states are less likely to engage in conflict-prone rivalries for security or prestige. Once the sole pole takes sides, there can be little doubt about which party will prevail.” 40 This is the core logic of Wohlforth’s argument that unipolarity is peaceful. But what specifically does his argument say about each of the six possible kinds of war I identified in the previous section? Clearly, great power war is impossible in a unipolar world. In Wohlforth’s famous formulation: “Two states measured up in 1990. One is gone. No new pole has appeared: 41 Furthermore, by arguing that unipolarity precludes hegemonic rivalries, Wohlforth makes no room for wars between the sole great power and major powers. These are, according to him, the two main reasons why a unipolar world is peaceful. Unipolarity, he writes, “means the absence of two big problems that bedeviled the statesmen of past epochs: hegemonic rivalry and balance-of-power politics among major powers.” 42 I agree with Wohlforth on these two points, but they are only part of the picture. Granted, the absence of great power wars is an important contribution toward peace, but great power competition—and the conflict it might engender—would signal the emergence of one or more peer competitors to the unipole, and thus indicate that a transition to a bipolar or multipolar system was already under way. In this sense, great power conflict should be discussed within the context of unipolar durability, not unipolar peace. Indeed, including this subject in discussions of unipolar peacefulness parallels the mistakes made in the debate about the Cold War bipolar system. Then, arguments about how the two superpowers were unlikely to fight each other were often taken to mean that the system was peaceful. This thinking ignored the possibility of wars between a superpower and a lesser state, as well as armed conflicts among two or more lesser states, often acting as great power proxies. 43 In addition, Wohlforth claims that wars among major powers are unlikely, because the unipole will prevent conflict from erupting among important states. He writes, “The sole pole’s power advantages matter only to the degree that it is engaged, and it is most likely to be engaged in politics among the other major powers. 44 I agree that if the unipole were to pursue a strategy of defensive dominance, major power wars would be unlikely. Yet, there is no compelling reason to expect that it will always follow such a course. Should the unipole decide to disengage, as Wohlforth implies, major power wars would be possible. At the same time, Wohlforth argues that the unipole’s power preponderance makes the expected costs of balancing prohibitive, leading minor powers to bandwagon. This is his explanation for the absence of wars between the sole great power and minor powers. But, as I show, the costs of balancing relative to bandwagoning vary among minor powers. So Wohlforth’s argument underplays the likelihood of this type of war. Finally, Wohlforth’s argument does not exclude all kinds of war. Although power preponderance allows the unipole to manage conflicts globally, this argument is not meant to apply to relations between major and minor powers, or among the latter. As Wohlforth explains, his argument “applies with less force to potential security competition between regional powers, or between a second-tier state and a lesser power with which the system leader lacks close ties.” 45 Despite this caveat, Wohlforth does not fully explore the consequences of potential conflict between major and minor powers or among the latter for his view that unipolarity leads to peace. How well, then, does the argument that unipolar systems are peaceful account for the first two decades of unipolarity since the end of the Cold War? Table 1 presents a list of great powers divided into three periods: 1816 to 1945, multipolarity; 1946 to 1989, bipolarity; and since 1990, unipolarity. 46 Table 2 presents summary data about the incidence of war during each of these periods. Unipolarity is the most conflict prone of all the systems, according to at least two important criteria: the percentage of years that great powers spend at war and the incidence of war involving great powers. In multipolarity, 18 percent of great power years were spent at war. In bipolarity, the ratio is 16 percent. In unipolarity, however, a remarkable 59 percent of great power years until now were spent at war. This is by far the highest percentage in all three systems. Furthermore, during periods of multipolarity and bipolarity, the probability that war involving a great power would break out in any given year was, respectively, 4.2 percent and 3.4 percent. Under unipolarity, it is 18.2 percent—or more than four times higher. 47 These figures provide no evidence that unipolarity is peaceful. 48 In sum, the argument that unipolarity makes for peace is heavily weighted toward interactions among the most powerful states in the system. This should come as no surprise given that Wohlforth makes a structural argument: peace flows from the unipolar structure of international politics, not from any particular characteristic of the unipole. 49 Structural analyses of the international system are usually centered on interactions between great powers. 50 As Waltz writes, “The theory, like the story, of international politics is written in terms of the great powers of an era.” 51 In the sections that follow, however, I show that in the case of unipolarity, an investigation of its peacefulness must consider potential causes of conflict beyond interactions between the most important states in the system.

## Allies

### 2NC signal – A2 lock-in allies

#### Allies can’t be “locked-in”

Christopher Layne, Professor and Chair, National security, George HW Bush School of Government and Public Service, Texas A&M University, "The Unipolar Exit: Beyond *Pax Americana*," CAMBRIDGE REVIEW OF INTERNATIONAL AFFAIRS v. 24 n. 2, 6--11, p. 159.

Curiously, Brooks and Wohlforth (and other analysts, notably Fareed Zakaria) believe that notwithstanding US relative decline, the Pax Americana can be maintained (Zakaria 2008). Speciﬁcally, they believe that international institutions can help perpetuate US dominance. By strengthening these institutions, they say, the United States can ‘lock in’ the hegemonic order that it built after World War II and thereby ensure that it persists after unipolarity ends (Brooks and Wohlforth 2008; Ikenberry 2001; Keohane 1984). Brooks and Wohlforth also assert that unipolarity affords the United States a 20 year window of opportunity to recast the international system in ways that will bolster the legitimacy of its power and advance its security interests (Brooks and Wohlforth 2008, 216–218). There are four reasons why this ‘institutional lock-in’ argument is wrong. First, America’s liberal preferences—which underpin the US commitment to multilateralism and international institutions—have been dealt a telling blow by the Great Repression. Institutions have failed to produce a coordinated response to the ﬁnancial and economic crisis. Moreover, through the actions of national governments, the state has been brought back in to economic policy, and states have responded to the crisis by adopting nationalistic and neo-mercantilist policies rather than by pursuing international cooperation. Second, because of the perception that its hard power is declining, and the hit its soft power has taken because of the meltdown, there is a real question about whether the United States retains the credibility and legitimacy to take the lead in institutional reform. As Financial Times columnist Martin Wolf (2008) says, ‘The collapse of the western ﬁnancial system, while China’s ﬂourishes, marks a humiliating end to the “unipolar moment.” As western policy makers struggle, their credibility lies broken. Who still trusts the teachers?’ Third, rather than locking themselves into the ebbing Pax Americana, rising powers such as China need to wait only a decade or so to reshape the international system themselves and construct a new order that will reﬂect their interests, norms, and values (Jacques 2009). Finally—and most important—the institutional lock-in argument misses a fundamental point: the entire fabric of world order that the United States established after 1945—the Pax Americana—rested on the foundation of US military and economic preponderance. Remove the foundation and the structure crumbles. The decline of American power means the end of US dominance in world politics and the beginning of the transition to a new constellation of world power. Without the ‘hard’ power (military and economic) upon which it was built, the Pax Americana is doomed to wither in the early twenty-ﬁrst century.

# 1NR

### O/V

#### New sanctions risk war – escalates and spills over turning case – makes middle east and indo pak war inevitable – regional escalation

David Martosko, “Obama Would Veto Senate’s New iran Sanctions Bill…” DAILY MAIL, 12—19—13, [www.dailymail.co.uk/news/article-2526725/Obama-veto-Senates-new-Iran-sanctions-bill-says-White-House-HALF-sponsors-Democrats.html](http://www.dailymail.co.uk/news/article-2526725/Obama-veto-Senates-new-Iran-sanctions-bill-says-White-House-HALF-sponsors-Democrats.html), accessed 12-30-13.

The president's chief spokesman echoed other administration officials' complaints that threats of a new round of sanctions could drive Iran away from the bargaining table and perhaps put the nation on war footing with the U.S. and Israel. The Senate bill would 'greatly increase the chances that the United States would have to take military action' against Iran, he claimed. 'It would potentially divide the international community and obviously would suggest bad faith on the part of the United States.'

### PC Key

#### Obama using PC to keep Dems, Reid in line

Mark Landler and Michael R. Gordon, “Obama Administration Tries to Prevent New Sanctions on Iran During Talks,” NEW YORK TIMES, 12—10—13, [www.nytimes.com/2013/12/11/world/middleeast/obama-administration-tries-to-prevent-new-sanctions-on-iran-during-talks.html?\_r=0](http://www.nytimes.com/2013/12/11/world/middleeast/obama-administration-tries-to-prevent-new-sanctions-on-iran-during-talks.html?_r=0), accessed 12-30-13.

With Iran threatening that any new sanctions would scuttle its interim nuclear deal with the West, the Obama administration is fighting a fierce battle to convince skeptical Senate Democrats not to pass any new measures against Tehran. The White House effort achieved some success on Tuesday, when Senator Tim Johnson, a South Dakota Democrat who is chairman of the Senate Banking, Housing and Urban Affairs Committee, said the administration had made a strong case for a “pause” in congressional action, and that he was inclined not to move sanctions legislation forward in his committee. But other prominent Democrats, including Senator Charles E. Schumer of New York, support new sanctions, with deferred imposition, and Senator Harry Reid of Nevada, the majority leader, is said to be sympathetic. At a congressional hearing, Secretary of State John Kerry pleaded with lawmakers to give the diplomatic efforts breathing space. He said the Obama administration opposed even a bill that deferred additional measures for six months, and would impose them only if Iran did not adhere to strict limits on its nuclear program. Instead, he pledged to petition Congress for tougher sanctions if the effort to negotiate a comprehensive nuclear accord with Iran falls short. “We are committed to asking you for additional sanctions if we fail,” Mr. Kerry told the House Foreign Affairs Committee on Tuesday. “We will need them.” The administration is also preparing this week to blacklist several Iranian individuals for violations unrelated to the nuclear program, said people with knowledge of its plans. The goal is to signal to Congress that it will not relax pressure on Iran over human rights or terrorism during talks on its nuclear program. With the battle lines between the White House and Iran hawks clear, the administration has focused its lobbying on Democratic senators, including Mr. Reid, who are normally allies of the White House but are deeply skeptical of a deal with Iran, in part because of their staunch support for Israel. President Obama and Mr. Kerry have called Democrats to try to persuade them to hold off on sanctions. Mr. Kerry will brief senators from both parties on the deal in a closed-door session this week, with Wendy R. Sherman, the State Department’s chief negotiator, and David S. Cohen, the Treasury under secretary who oversees sanctions.

#### Obama has to overcome opposition to keep veto-proof majority

By Jim Lobe¶ Iran sanctions bill: Big test of Israel lobby power¶ Friday, 12.27.2013, 03:06am <http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046>

Republicans, many of whom reflexively oppose President Barack Obama’s positions on any issue and whose core constituencies include Christian Zionists, are almost certain to support the bill by an overwhelming margin. If the bill gets to the floor, the main battle will thus take place within the Democratic majority. The latter find themselves torn between, on the one hand, their loyalty to Obama and their fear that new sanctions will indeed derail negotiations and thus make war more likely, and, on the other, their general antipathy for Iran and the influence exerted by AIPAC and associated groups as a result of the questionable perception that Israel’s security is uppermost in the minds of Jewish voters and campaign contributors (who, by some estimates, provide as much as 40 percent of political donations to Democrats in national campaigns). The administration clearly hopes the Democratic leadership will prevent the bill from coming to a vote, but, if it does, persuading most of the Democrats who have already endorsed the bill to change their minds will be an uphill fight. If the bill passes, the administration will have to muster 34 senators of the 100 senators to sustain a veto – a difficult but not impossible task, according to Congressional sources.

#### Capital is key to protecting the deal

Bhaskar Balakrishnan, “Time to End Iran’s Isolation,” HINDU BUSINESS LINE, 12—1—13, LN.

The recent interim agreement in Geneva on Iran's nuclear programme has opened up prospects of a broader détente in the region, and hopes for peace and stability in the region. Under President Hassan Rouhani, a more pragmatic and moderate posture has been visible from Iran, and relations with the US and the West have improved. Iran's population suffering economic hardships under a tight sanctions regime as well as restrictions on political and religious freedom, supports Rouhani's efforts. However, Israel, Saudi Arabia, and hardliners in the US and Iran do not approve of the agreement and are looking for signs of failure. Economic cooperation with India had been impacted during the face-off between Iran and the US; now there could be better prospects for cooperation. India has been steering a cautious path, applying UN mandated sanctions but trying to apply only the minimum level of additional US and EU sanctions, keeping in view its broader economic stakes. Oil imports have been reduced in order to obtain exemptions from US sanctions as well as due to difficulties in arranging payments and insurance for shipments. China, on the other hand, has managed to maintain its oil purchases and still get US exemptions due to its strong economic leverage with the US. On Iran's nuclear programme, India's stance has been to support diplomatic resolution of outstanding nuclear issues with the International Atomic Energy Agency. It would have liked a consensus decision in the IAEA but eventually had to vote in favour of the resolutions in the IAEA Board. While the nuclear Non-Proliferation Treaty which Iran has signed does not forbid uranium enrichment for peaceful purposes, Iran's programme had led to doubts over its intentions. The centrifuge capacity was not enough for civil nuclear power (Iran has only one power reactor, built with Russian collaboration), was uneconomical compared with imported fuel, and the level of enrichment was much more than required for power reactors. Give and take Iran has agreed to interim measures to freeze its enrichment capacity, reduce and eliminate its stocks of 20 per cent enriched uranium, allow more intensive inspections, and stop work on the Arak heavy water reactor, in exchange for some relief from sanctions and a pledge not to apply more sanctions. The interim agreement gives a six-month period to reach a more comprehensive agreement. When the US Congress meets on December 9, it will no doubt take stock of the situation. Congress is the determining factor in easing general economic sanctions, something Iran desperately seeks, while the US President has powers to provide only limited relief. A Bill on more sanctions has been passed in the House by a huge bipartisan majority (400-22), and a similar Bill in the Senate is under active consideration. Considerable political capital and persuasion will be needed to get the Senate to hold off on more sanctions.

### UQ

#### Obama is pressing congress on sanctions

Josh Gerstein, “Obama Speaks Out Against More Iran Sanctions,” POLITICO, 12—20—13, [www.politico.com/politico44/2013/12/obama-speaks-out-against-more-iran-sanctions-180036.html](http://www.politico.com/politico44/2013/12/obama-speaks-out-against-more-iran-sanctions-180036.html), accessed 12-30-13.

President Barack Obama urged Congress Friday not to enact new sanctions on Iran in the near future and he suggested lawmakers advancing such measures are making political hay of the issue.¶ "I've said to members of Congress: Democrats and Republicans...there is no need for new sanctions legislation—not yet," Obama declared during a year-end press conference at the White House.¶ The president said he wasn't shocked that some on Capitol Hill were advancing new sanctions legislation aimed at Iran's nuclear program. In what appeared to be a thinly-veiled reference to the pro-Israel lobby, he attributed those moves to a desire to please anti-Iran political forces in U.S.¶ "I'm not surprised that there's been some talk from some members of Congress about sanctions. I think the politics of trying to look tough on Iran are often good when you're running for office—or if you're in office," Obama said.¶ The president urged lawmakers to give a six-month deal with Iran over its nuclear program time to work and to allow more in-depth negotiations on a permanent pact. If Iran suddenly tries to accelerate its nuclear capabilities, "it's not going to be hard for us to turn the dials back or strengthen sanctions even further," Obama said. "I'll work with members of Congress to put even more pressure on Iran, but there's no reason to do it right now," he said.

#### Obama is willing to challenge the Israel lobby over Iran sanctions

Robert W. Merry, political editor, National Interest, “Obama May Buck the Israel Lobby on Iran,” WASHINGTON TIMES, 12—31—13, <http://www.washingtontimes.com/news/2013/dec/31/merry-obama-may-buck-the-israel-lobby-on-iran/>, accessed 1-2-14.

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.”¶ For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House.¶ With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto.

#### Obama is blocking new Iran sanctions now—they risk scuttling the deal, which solves Iran prolif and Mideast war

TEHRAN TIMES, “White House Opposed to New Iran Sanctions,” 12—4—13, LN.

The White House said on Tuesday it opposes a fresh effort by some members of the U.S. Senate to impose new sanctions against Iran, even if the new restrictions would not take effect for months, according to Reuters. Some senators have been discussing the idea of imposing new sanctions on Iran that would kick in after six months or if the terms of an interim nuclear deal reached on November 24 between Tehran and world powers were not implemented. "If we pass sanctions now, even with a deferred trigger which has been discussed, the Iranians, and likely our international partners, will see us as having negotiated in bad faith," White House spokesman Jay Carney told reporters. Administration officials have been pushing lawmakers not to move ahead with a sanctions package, saying doing so risked alienating Tehran and other countries engaged in the talks by making Washington seem to be acting in bad faith. But many lawmakers are skeptical about the agreement reached in Geneva between negotiators for Iran and the so-called P5+1 - the United States, China, Russia, Britain, France, and Germany - and insist Washington should increase the pressure on Tehran by adding to sanctions. Wendy Sherman, the U.S. undersecretary of state for political affairs, who led the U.S. negotiating team in Geneva, was scheduled to hold a classified briefing on Iran for the entire House of Representatives on Wednesday morning. Seeking to clarify some of the terms of the interim deal, a White House spokeswoman said the United States is prepared to accept some limited uranium enrichment by Iran in exchange for Tehran accepting strict verification procedures. The United States does not recognize that Iran has a right to enrich, but "we are prepared to negotiate a strictly limited enrichment program in the end state," said Bernadette Meehan, a spokeswoman with the White House National Security Council. This is because the Iranians have indicated that they are prepared to accept "rigorous monitoring and limits on level, scope, capacity, and stockpiles," she said. "If we can reach an understanding on all of these strict constraints, then we could have an arrangement that includes a very modest amount of enrichment that is tied to Iran's practical needs," said Meehan. The White House says a six-month window without new sanctions would allow negotiators to work on a comprehensive agreement to resolve the decade-old dispute over Iran's nuclear program, which has stirred fears of a new Middle East war. But lawmakers believe it was tough sanctions pushed by Congress - not the White House - that brought Tehran to the table and see no reason not to impose more sanctions on Iran. "That way we're not negotiating in what-ifs," a Senate aide said. Members of Congress, including many of President Barack Obama's fellow Democrats, are generally more hawkish on Iran than the administration, and influential pro-Israel lobbyists have been pressing lawmakers to keep to a tough line. Carney said there are concerns in the Obama administration that any new sanctions imposed by Congress would serve to undermine the core architecture of the sanctions program. "Passing any new sanctions right now would undermine a peaceful resolution to this issue," he said. Iran rejects allegations that it has sought covertly to develop the capacity to produce nuclear weapons, saying it is enriching uranium solely for civilian purposes. Congressional aides said it was too early to know whether an Iran sanctions package would be introduced as standalone legislation or as an amendment to a measure such as a defense authorization bill being considered by the Senate. It also was not clear how far any legislation would go in the Senate, where Obama's fellow Democrats control a majority of votes.

#### New round of sanctions will get avoided now – but PC is key

Washington Post 12-2 Will Senate Dems really undermine the White House on Iran?¶ By Greg Sargent ¶ December 2 at 12:43 pm http://www.washingtonpost.com/blogs/plum-line/wp/2013/12/02/will-senate-dems-really-undermine-the-white-house-on-iran/

The Washington Post reports today that Senate Dems really do appear to be forging ahead with plans to vote on new sanctions on Iran, even though the White House fears that this could undermine the prospects for a long-term deal curbing Iran’s nuclear program.¶ Administration officials are aggressively lobbying Senate Dems — including Robert Menendez and Chuck Schumer — not to hold any vote on sanctions right now, even if those sanctions would only take effect after the six month deadline of the temporary deal expires:¶ The administration contends that new sanctions not only would violate the terms of the interim agreement — which temporarily freezes Iran’s nuclear programs and modestly eases existing sanctions — but also could divide the United States from its international negotiating partners across the table from Iran and give the upper hand to Iranian hard-liners in upcoming talks.¶ “The purpose of sanctions from the outset was to create a dynamic so that you can get a change in policy from the Iran­ians,” David Cohen, the Treasury Department’s undersecretary for terrorism and financial intelligence. said in an interview. “It’s not sanctions for the sake of having sanctions.”¶ The White House has organized a full-court press between now and the Senate’s return Dec. 9 to persuade lawmakers not to act.¶ There are a few ways I think this could play out.¶ One possibility: Harry Reid has referred the matter to the Senate Banking Committee, and the Committee could simply not act on any sanctions bill. The Committee’s chair, Senator Tim Johnson, has issued a statement that seemed sympathetic to the administration — his office said he supports a “diplomatic solution” and was “encouraged” by Obama’s announcement of a temporary deal — so it’s possible he’ll be receptive to the administration’s argument against a vote on new sanctions.¶ According to a source involved in the process, Senator Johnson is set for a private briefing next week on the Iran deal with Secretary of State John Kerry, and probably won’t make any decisions before then. “No decisions have been made,” the source says. Of course, if the committee didn’t act, there would be other ways for the Senate to pass new sanctions — such as via an amendment to a defense authorization bill — but this would make it hard for Obama to veto, and would entail Harry Reid directly bucking the administration in a very public, consequential way.¶ Another possibility: The Senate could pass a sanctions bill that is structured in a way that gives the White House the flexibility it needs. Here’s how this could work: The sanctions could be set up to kick in after the six month mark, but there could be a kind of escape hatch which allows for the sanctions to be deferred, if after the six months both sides agree a big, long term deal is within reach and want to keep talking. But hawks will loudly oppose this on the grounds that it could let Iran string the process out indefinitely.¶ A third possibility: Senate Dems could defer the vote, as per the scenario laid out by Dem Rep. and pro-Israel hawk Eliot Engel the other day. Dems would prepare a sanctions bill and threaten to vote on it if Iran is seen to be reneging on its end of the temporary bargain.¶ The last possibility, of course, is that the Senate could simply buck the administration’s request altogether and vote now on a full fledged sanctions bill that kick in after six months with no escape hatch (Obama could veto the bill, but this is a scenario the White House really doesn’t want, partly for the reasons outlined in the Post piece). This is a hard outcome to imagine. Senate Dems will insist that they are actually doing this to strengthen the administration’s position – not undermine it — by increasing the threat level associated with the failure to reach a long term deal.¶ But this is a tough case to make, given that the administration itself is asking Dems refrain from doing this, on the grounds that it could imperil the chances for a truly historic breakthrough. If it comes to this, Democrats will be asked to explain why the White House’s request for flexibility — given that it has come far enough to reach a temporary deal — is an unreasonable one.¶ If I had to guess right now, I’d say the second or third are the most likely outcomes. But there is a tremendous amount of pressure being brought to bear on Senate Dems from all sides, so the situation is very much in flux.

### Links

#### Link debate – loss on war powers is a crushing defeat for Obama – emboldens future GOP challenges – that’s Loomis – key distinction for our scenario – plan means he’d be forced to give-in to war hawks on sanctions to save face

Chait 5/23/13 (Jonathon, “Obama Guards His Left Over Terrorism”, <http://nymag.com/daily/intelligencer/2013/05/obama-guards-his-left-over-terrorism.html>)

President Obama’s speech today defending his conduct in the waron terrorwas notablefor what he was defending it against — not against the soft-on-terror (and maybe sorta-kinda-Muslim) attack that Republicans have lobbed against him since he first ran for president, but against critics on the left.¶ It is a sudden and welcome turnabout. When Obama first appeared on the national scene, he was a political novice, a liberal Democrat who had made his name opposing the Iraq War, a constitutional law professor, and his middle name was Hussein. The need to defend his hawkish credentials was an, and perhaps the, essential task of his 2008 election. And the dynamic persistedthroughout his first term, as Republicans used events like Obama’s attempt to close the Guantanamo Bay prison and the Christmas bomber to revive their weak-on-terror caricature.¶ Having fortified his right flank, Obama’s left was totally exposed. Rand Paul signaled the first volley, by launching a high-profile filibuster speech on drones that attracted the sudden support of fellow Republicans who had expressed zero previous qualms. The Department of Justice leak-prosecution story was the event that turned Obama’s civil liberties weakness into a gaping vulnerability. As I’ve written, its political importance was a pure accident of timing. A new (inaccurate) report on Benghazi, followed by the IRS scandal, created a sudden frenzy.¶ That’s when the DOJ leak story dropped. And what would ordinarily be considered a policy dispute — and one that attracted the interest only of a handful of liberals and libertarians — became a scandal pursued by Republicans, who previously had stood to Obama’s right on the issue. The DOJ story was a problem for Obama because it was a legitimate case of abuse, unlike the nothing-burger Benghazi story or the IRS episode for which the White House seemed to bear no responsibility. The legitimacy of the DOJ policy, even though it’s not a “scandal” by any normal definition, kept the damaging “scandal” meme alive.¶ Obama used his speech today to shore up his exposed left flank. He did so in several ways. He argued for his administration’s drone strikes, which have become a symbol of out-of-control military power, as a flawed but necessary step that minimizes civilian casualties in comparison with the alternative. Obama promised “to review proposals to extend oversight of lethal actions outside of war zones that go beyond our reporting to Congress.” He insisted that he would not and could not use drones to attack an American citizen on U.S. soil. He promised “to engage Congress about the existing Authorization to Use Military Force, or AUMF, to determine how we can continue to fight terrorists without keeping America on a perpetual war-time footing.” And he pledged a review of the DOJ’s approach to prosecuting national security leaks.

#### Discussion is coopted – sucks up PC and is a loss

Vladeck 13 (Steve--- professor of law and the associate dean for scholarship at American University Washington College of Law, “Drones, Domestic Detention, and the Costs of Libertarian Hijacking”, 3/14, <http://www.lawfareblog.com/2013/03/drones-domestic-detention-and-the-costs-of-libertarian-hijacking/>)

The same thing appears to be happening with targeted killings. Whether or not Attorney General Holder’s second letter to Senator Paul actually answered the relevant question, it certainly appeared to mollify the junior Senator from Kentucky, who declared victory and withdrew his opposition to the Brennan nomination immediately upon receiving it. Thus, as with the Feinstein Amendment 15 months ago, the second Holder letter appears to have taken wind out of most of the libertarian critics’ sails, many of whom (including the Twitterverse) have now returned to their regularly scheduled programming. It seems to me that both of these episodes represent examples of what might be called “libertarian hijacking”–wherein libertarians form a short-term coalition with progressive Democrats on national security issues, only to pack up and basically go home once they have extracted concessions that don’t actually resolve the real issues. Even worse, in both cases, such efforts appeared to consume most (if not all) of the available oxygen and political capital, obfuscating, if not downright suppressing, the far more problematic elements of the relevant national security policy. Thus, even where progressives sought to continue the debate and/or pursue further legislation on the relevant questions (for an example from the detention context, consider Senator Feinstein’s Due Process Guarantee Act), the putative satisfaction of the libertarian objections necessarily arrested any remaining political inertia (as Wells cogently explained in this post on Senator Paul and the DPGA from November).

### Thumps

#### Econ won’t thump – improving and not sap PC

The Daily Beast 1/3/14 [Dean Obeidallah, “6 Reasons This Could Be Obama’s Best Year as President”, <http://www.thedailybeast.com/articles/2014/01/03/6-reasons-this-could-be-obama-s-best-year-as-president.html>]

1. The US economy is improving: A good economy generally equals higher approval ratings for president and in turn more political capital for him to push for his proposals. Even President Clinton had an approval rating of 73% in the midst of his impeachment. Why? One big reason was the US economy was strong with unemployment at 4.5% and falling. Currently, the US economy appears poised for growth. The unemployment rate is at its lowest point during the Obama administration at 7%. This is in sharp contrast to the 10% unemployment rate we saw at one time in Obama’s first term. In addition, the stock market just had its best year since 1997, the GDP for the third quarter of 2013 grew at a surprisingly strong 3.6% annual rate and the IMF recently raised its 2014 growth projection for the US economy.

#### Health care won’t thump - focus

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

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

### Winners Win

**Sequencing – unpopular policies ruin the agenda– Obama’s entire first term proves**

**Hirsh, 2/7** --- Chief correspondent (2/7/2013, Michael, “There’s No Such Thing as Political Capital; The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong,” [http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207)](http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207%29))

.¶ THE REAL LIMITS ON POWER¶ **Presidents are limited in what they can do by time and attention span,** of course, just as much as they are by electoral balances in the House and Senate. But this, too, has nothing to do with political capital. Another well-worn meme of recent years was that Obama used up too much political capital passing the **health care** law in his first term. But **the real problem was that the plan was unpopular**, the economy was bad, and the president didn’t realize that the national mood (yes, again, the national mood) was at a tipping point against big-government intervention, with the tea-party revolt about to burst on the scene. For Americans in 2009 and 2010—haunted by too many rounds of layoffs, appalled by the Wall Street bailout, aghast at the amount of federal spending that never seemed to find its way into their pockets—government-imposed health care coverage was simply an intervention too far. **So was the idea of another economic stimulus. Cue the tea party and what ensued: two titanic fights over the debt ceiling**. **Obama**, like Bush, **had settled on pushing an issue that was out of sync with the country’s mood**.¶ Unlike Bush, Obama did ultimately get his idea passed. But the bigger political problem with **health care** reform was that it **distracted the government’s attention from other issues** that people cared about more urgently, such as the need to jump-start the economy and financial reform. Various congressional staffers told me at the time that their bosses didn’t really have the time to understand how the Wall Street lobby was riddling the Dodd-Frank financial-reform legislation with loopholes. **Health care was sucking all the oxygen out of the room,** the aides said.

**Hirsch concedes PC matters**

**Hirsh, 2/7** --- Chief correspondent (2/7/2013, Michael, “There’s No Such Thing as Political Capital; The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong,” [http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207)](http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207%29))

**The point is not that “political capital” is** a **meaningless** term. **Often it is a synonym for** “mandate” or “**momentum” in the aftermath of a decisive election**—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many **pundits still defend political capital as a useful metaphor at least**. “**It’s an unquantifiable but meaningful concept,” says** Norman **Ornstein** of the American Enterprise Institute. “**You can’t** really look at a president and **say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have** popularity and some **momentum on your side**.”